AN

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OF

historical Papers.

LEGAL AND BIOGRAPHICAL STUDIES.

Published by the Historical Society of Trinity College,

DURHAM, N. C.

SERIES II.

UNDER THE SUPERVISION OF THE DEPARTMENT OF HISTORY.

1898.

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PREFATORY NOTE.

The second series of the Trinity College Historical Papers represents work done mostly in the Trinity College Historical Society. The kind reception given to the first series by the public leads me to hope the same consideration may be given to the papers now issued. They are the outgrowth of the devotion of young men to the neglected field of Southern history. It is hoped that they may not be found useless in creating a better knowledge of Southern history among the people of our common country.

JOHN S. BASSETT,
Professor of History.

May 16, 1898.

Historical Papers.

SERIES 2.

ASSASSINATION OF JOHN WALTER STEPHENS.

The year 1870 is one of the years that will go down in history as one of great social and political significance, and it well marks the culmination and the decline of the Ku Klux organization. Never before, nor perhaps since, was there a time when prejudice and feeling, intermingled with crime, ran so rampant along social and political lines. It was a time when the negro, or the white man who took any part with the negro in politics, on hearing after nightfall the clattering of horses' feet or the loud tap on his door, would feel his blood run cold in his veins for fear there was a raid on foot and perchance he might be the victim.

John Walter Stephens was born October 14, 1834, in Guilford county, N. C. His parents were good people, comfortably situated on a farm, and were consistent members of the Methodist church. His father died when he was about 18 years of age, leaving a wife, four sons and two daughters. Walter, with his brothers, lived on the farm and supported the family. A few years later he learned to make harness, and went into the harness business. His education was of a very ordinary sort, for he had only the advantages of the common schools. He studied a great deal at home, however. When he grew into more matured life he "often mourned his lack of education, and he used to say that was what every poor man owed to slavery."

In 1857 he married Nannie E. Walters, who died two

years later, leaving him a little girl one year old. At this time he was engaged in the harness business in Wentworth, N. C. In 1860 he was married the second time to Frances Groom, of Wentworth.

About this time he began to trade on tobacco, and connected himself with one Powell, a manufacturer. He worked as collector and agent for Powell, spending the greater portion of his time in Yorkville, S. C.

The war now came on and he went to Greensboro, N. C., and stood an examination, by which he got an appointment. He belonged to what was known as "press agents," a class of men who went over the country pressing horses to be used in the war. He was not in the war until its close, having from some cause been allowed to return to his home in Wentworth.

He was known by all as an honest, fair-dealing, christian man. He was a most loving husband and kind father, and an energetic worker in the Methodist church.

Soon after his return from the war he got into a difficulty with Tom. Ratcliffe. There was a grudge between the two in this way: William Ratcliffe went to Greensboro at the same time Stephens did to stand the examination for an appointment. Stephens was some sharper than William Ratcliffe and got the appointment. This angered his brother, Tom. Ratcliff, to some extent, and it seemed that he determined to get even with him for his brother's sake.

Tom. Ratcliffe lived next door to Stephens and ran a store just across the street. Ratcliffe's chickens—and he had a great many—kept using in Stephens' barn and eating up grain and other food stuffs. They were also destroying his garden. Stephens asked him to make some arrangement to prevent this. Ratcliffe, though warned several times, seemed to pay no attention whatever to the matter. One morning Stephens went down to his barn and found it well stocked with Ratcliffe's poultry. He at once made chase, caught two, and executed them on the spot. Call

ing to Mrs. Ratcliffe, who was in her garden near by, he told her that he had killed two of her fowls, and that she could have them, and that the cause of the killing was evident. She flew into a passion and would not accept the chickens, and Stephens, without having any words with her, good naturedly and smiling, carried them into his house and ordered them cooked. Ratcliffe is informed of it, and thinks that now is his chance. He goes to the court house and procures a warrant for the arrest of Stephens, charging him with having stolen the chickens. Stephens was arrested and placed in jail, where he remained all night. Early next morning he gave bond and returned home.

Ratcliffe was seated on his store porch enjoying the invigorating breeze of the early morning, chatting with some gentlemen. Stephens had very little to say; he was a man of very few words, and in this case he acted. Placing his revolver in his pocket, and taking up a large, heavy hickory walking stick, he went out and walked coolly and calmly across the street to Ratcliffe's store porch. He stepped up on the steps, and, without hesitating, struck Ratcliffe a heavy blow on the head. Lieutenant Baker, an enrolling officer, who was standing on the porch, interfered, and when he did so, Stephens pulled his pistol and began to shoot. When the smoke had cleared away Lieutenant Baker was found to have an ugly scalp wound; the ball, starting just over his eye, cut a deep furrow around to the back of his head. It was indeed a close call, but turned out nothing serious. Also Patrick Law, a magistrate's son, was accidentally shot through the arm.

At the magistrate's trial he was bound over to court. This affair would not have given him much trouble had he not gone into politics. Every politician then of any note had stolen either a cow, pig, horse or chicken, or was accused of it, especially if he happened to be a Republican.

After the above incident, when he entered the political

arena he was given the name of "Chicken" Stephens, by his opponents. This went much harder with him than it otherwise would have done for this reason: In 1866 he moved to Yanceyville, which is the county seat of Caswell county. He moved before court convened. The two places were only about 25 miles apart, and he awaited a summons to trial; but none came. Still other courts convened and the case was never called, nor did they send for him. Finally he learned that the case had been dismissed; and so he was never given a chance to exonerate himself or let the testimony come out in its true light.

All of his life up till about now, he had been a Democrat, but had never taken any very active part in politics. In Yanceyville he was engaged in the tobacco business for some time. Then he served the people for several years as Justice of the Peace in a very satisfactory manner. He had the respect and confidence of the entire county.

But now came the great turning point in his life. He changed from the Democratic party, with which he had voted so many years, to the Republican. The Republicans had a large majority in Caswell, consisting mostly of negroes. Stephens was at once recognized as leader of the Republican forces and received the nomination for the State Senate. He ran against Hon. Bedford Brown, a man who had been in the U. S. Senate for twenty years. This campaign was one in which much feeling was displayed. The neighbors and friends who had held Stephens in high esteem, turned their backs upon him and circulated slanderous reports concerning him. In fact, it may truly be said that he was socially ostracised.

Bedford Brown was old and experienced, and was thought to have manipulated the vote so as to be counted in. Stephens at once contested the election and obtained his seat. This victory immediately called forth the most bitter abuse that could be heaped upon him. He served one term in the Senate, was re-elected and served another. He con-

ducted himself in a manly and most dignified manner, and commanded the respect of that body.

When Stephens was nominated for the Senate, such a sentiment was worked up against him, and so diabolical were the threats made by the adherents of the opposite party, that for his protection at night he had his windows barred with iron and heavier locks put on his doors, and a number of fire arms, that would be available on short notice, placed in his home.

The Ku Klux were abroad in the land and nightly were they whipping, burning and hanging. These were the adherents of the opposite party and many nights Stephens heard them come, stop at his house and then ride on. They seemed to have no idea of attacking Stephens in his own house, as their actions plainly demonstrated; but they were continually warning him that, did he not leave the country, change his political affiliations, or cease to assume the leadership of the Republican party in that, the 24th Senatorial district, he might expect the worst, and that his wife would be a widow and his children orphans. So loud and strong were these threats, that for the protection of his family he had his life insured for $10,000 and carried two deringers, one in each vest pocket, all the time. His position was a trying one, but he bore it heroically. He was ostracised, jeered at when on the streets, abused, villified and slandered, yet he went his way quietly and opened not his mouth. Finally he was expelled from the Methodist church for his political opinions.

It was in the campaign of 1870, on Saturday, May 21st, that there was a Democratic speaking and mass meeting in the court house at Yanceyville. Stephens lived almost in speaking distance of the court house and could get a plain view of it. He saw the people from the country coming in, and he decided that he would go over and see what was going to be done. He was in great danger and was conscious of the fact, but he went to show them that he was not afraid

to go, and also to see what tactics the Democrats would use in the campaign. When he started, his wife, trying to prevail on him not to go, said: "Mr. Stephens, you know that is a Democratic meeting, and I am afraid you will get into trouble." But on he went. He had to pass his brother-in-law's house and a niece came out and spoke to him. He told her he was going to the court house to the Democratic speaking. She tried to persuade him not to go, and said she feared there would be trouble. He replied: "I am not going to bother any one and one had better not bother me." She saw that it was of no use to talk to him longer, for he had determined to go. He little thought then that there had already been set a trap to catch him and put him out of the way, and that the Ku Klux were the planners. But such was the case; and they had laid their plans well. Before entering the court house he met ex-Sheriff Wiley, whom he had been trying to induce to run for sheriff of the county on the Republican ticket, as there were few in the Republican ranks who were competent to fill such an office. Wiley was a Democrat and seemed to be taken with the idea. He told Stephens that he would give him a definite answer before the day closed.

Stephens then entered the court room and sat down just in front of one of his brothers. Another brother was just across the aisle and a brother-in-law was also in the room. 'Squire Hodnett, one of Caswell's prominent citizens, was speaking. Stephens took out a note-book and pencil, and seemed to be jotting down some things the speaker was saying. The crowd cast very sour looks at him, and the speaker said: "Ah! there sits that Stephens now, taking notes." From this he began to abuse him. Stephens said nothing, but a smile could be seen to play over his face occasionally.

Presently ex-Sheriff Wiley came in and touched Stephens on the shoulder, and said one or two words to him. He arose, and he and Wiley went out together. His brothers

noticed it, but gave it very little thought. There were scores in the room, however, who understood its meaning full well.

There was an old room in the lower end of the court house, on the first floor, which was formerly the clerk's office, but was now used for a wood room.

The speaking was over and he had not come home. Night came on and still he had not returned. Suspicion was aroused at once. His wife was almost raving and said she knew her husband had been killed, or he would come to her. She always knew where he was and knew when to expect him home.

His brothers went in search of him, and several other white citizens, on hearing of his disappearance, kindly volunteered to assist in the search. On making enquiry, this white man had seen him in one place, that one in another, and some saw him leaving town and so on, all about the same time. But strange to say, as many negroes as there were, not one of them had seen him leave the court house; and if any one would notice his movements it would certainly have been they, for he was all in all to them. It was settled in the minds of many that he was still in the court house, and it was immediately surrounded and every room in the house searched, except one, and the key to that could be found nowhere.

The negroes came in great numbers and said that they knew their leader had been killed, and that he was still somewhere in the court house. A careful watch was instituted for the night around the building. Although the negroes were satisfied that their leader had been foully dealt with, they made no demonstration except that of sorrow and grief, for they loved him. It is said that it was strange to see the troubled faces of the negroes on this night. They offered no violence at all, and during the whole night nothing but order prevailed. It is said by some who were on guard that night that they expected that at

any minute the Ku Klux would make a raid on them, but according to the watchmen's calculations, the Clan thought they had done a good day's work and would rest for the night. Another thing was noticeable: As many white people as there were on the streets when the search was begun, they had quietly broken up in small groups and talked in undertones, and then quietly departed for their respective homes early in the evening, seemingly not aware that the leader of the Radicals was missing and that it was causing much concern among his followers.

At the first appearance of light next morning, a tall negro mounted the shoulders of another and looked through the window of the wood room, which could not be opened on the night before. There a horrible sight met his vision. The long, slender body of Stephens was lying on a pile of wood with a slip noose around his neck. The noose was buried deep in the flesh and the jugular vein was cut. The coroner, Dr. Yancey, who was near by, was immediately sent for, and the door was forced opened. The coroner was the first one to enter. Upon examination it was found that, besides being strangled and his jugular severed, he had been stabbed twice in the region of the heart and his leg broken. Beside him lay his hat and the bloody dirk with which he had been stabbed. The two deringers which he was known to have had, on going to the court house, were gone; but his gold watch and chain were still on his body. There were only a very few drops of blood on the floor and one on the window-sill. It was quite evident that the assassin, after committing the deed, had gone out at the window, for the door was found to be locked and thumb-bolted on the inside.

The coroner's inquest resulted in the decision that the "deceased had come to his death by the hands of some unknown party." It seemed to all, who really knew the depths to which politics and some political leaders had sunk, and the great extremes to which so-called good citi-

zens would go, before they would see the black man led to an honest victory, just this: When he left the court-room with ex-Sheriff Wiley he was decoyed down to this room, pushed in, seized and given no showing, deprived of his weapons and rendered helpless. He was then foully assassinated in sight of his own home. From the window of the room could be seen his two little girls playing on the lawn. The body was removed to his home and buried in the afternoon, which was Sunday afternoon, a large number of the citizens attending the funeral; and, to be plain, no doubt some of his assassins were attendants. Suspicion pointed to several prominent citizens, but it seemed impossible to get any evidence on account of the Ku Klux organization, which had now, as it always had, power to execute any plan or purpose however questionable, and then have the assurance that it could not be proved on them.

Some weeks after, Governor Holden ordered Kirk's men to Yanceyville to investigate the matter, make arrests and endeavor to bring the criminals to justice. They were about three hundred in number, with Kirk, Major Yates and Colonel Burgen at their head. It was a rough and reckless, but determined band.

There was a Democratic speaking in the court house and Hon. J. M. Leach was speaking. It was whispered about among the negroes that Kirk's men were coming. The negroes seemed to know all about it. They would say Kirk's men were so many miles away, soon they would say they were at such and such a point, and at length they said "they are here." One who had been catching these whisperings among the darkies looked out of a window, but immediately took his head back in, for around the court house, with guns pointing up at the windows and looking determined, were Kirk's men indeed. Guards were placed in the hall and at the doors, and no one was allowed to go out. The affair seemed to have been worked up well before

hand, for Major Yates immediately entered the room with a posse of men and with a long list of names, and began to make arrests.

Mr. Leach, the speaker, when he saw the uniforms, glittering swords and large guns proceeding down the aisle, very gracefully bowed and said he would resume his speech under more favorable circumstances.

The first person arrested was an old man named Bow. When told to consider himself under arrest, he jerked back violently and straightened his arm to its full length at the face of Major Yates. The Major said nothing, but drew his revolver and fired a shot over Bow's head. This was enough, and the remaining arrests were made without anything to mar the solemnity of the occasion.

Colonel Burgen, by this time, was on his way with a posse of men, to ex-Sheriff Wiley's home, some seven miles distant in the country. He was found in his field and tied on a bare-back horse. His hands were tied behind him and his feet tied together under the horse. In this manner he was brought to Yanceyville and placed under guard. He was afterwards carried to Graham, together with the others who had been arrested.

District Judge Bond issued a writ to have Wiley and the others brought to Raleigh for trial. They went. The trial lasted for many days, but the testimony amounted to very little in solving the mystery and proving who did the killing. This was so because the witnesses largely belonged to the Ku Klux, and they swore in favor of each other. The jury, too, no doubt, was composed of members of the same organization. Wiley testified that he called Stephens out to tell him he could not run for sheriff on the Republican ticket, and that he left Stephens at the bottom of the steps, went across the street and saw no more of him. Others corroborated his statement, and finally it ended in an acquittal of all. This was a time when "ignorance was bliss," for it was certainly "folly to be wise," especially so if one told what he knew.

Hamp. Johnson, an old negro living only a few feet away from the room in which Stephens was killed, whispered it among the negroes that he saw those who went in the room and heard a tremendous scuffle. But the Ku Klux, it was thought, found the means of silencing him, for "Old Hamp" never after that knew anything at all and lived in good style without working.

Some years ago ex-Sheriff Wiley was on his death-bed, and it is said that he was raving and continually talking of Stephens, saying that he could see him and that he had helped to kill him. This report, however, was denied by his friends.

Less than two years ago Felix Roan, a citizen of Yanceyville, died; and it is reported that before he died he confessed that he helped to assassinate Stephens, and that Wiley also helped. The newspapers reported it, saying that Stephens' widow was present and Roan asked her forgiveness before he died, and that Mrs. Stephens said she would forgive him. It is almost a settled thing in the minds of many people who remember the occurrence, that Roan helped to assassinate Stephens and that he confessed it on his death-bed. But his friends and relatives denied it, and it was soon covered up. As to Mrs. Stephens forgiving him, that is entirely untrue, for she had then been dead three years.

Other cases have been reported in which certain men on their death-beds have made. or have tried to make, confessions concerning this assassination, but they were silenced or suppressed.

John Walter Stephens' courage and organizing ability was unquestioned, and under his lead it was known that Caswell county would continue to give an "overwhelming Radical majority, and for this he was killed. He gave up his life for the rights of the people—the right of equal manhood suffrage." He was unswerving in his brave adherence to the principals he professed. He crowned a

worthy life by a martyr's death; he was pursued with fearful malice and bigoted hate to the very portals of the tomb. The perpetrators of this foul deed have escaped the punishment of their crime, at least by the law.

LUTHER M. CARLTON.

NOTE.—The material for this paper is taken from family records, and statements of citizens who are thoroughly acquainted with the incidents related. L. M. C.

THE CASE OF THE STATE VS. WILL.

One of the most remarkable cases ever tried in the North Carolina courts was the case of The State vs. Will. It was the most important case on the subject of slavery and fixed a slave's right to defend himself against the cruel and unjust punishment of a master. It was decided at the December term, 1834, of the Supreme Court (State vs. Will, 1 Devereux and Battle, 121-172). The facts of the case are as follows:

Will was the slave of Mr. James S. Battle, of Edgecombe county, and was placed under the direction of an overseer named Richard Baxter, a man whose temper differed materially from that of his pious namesake. On January 22, 1834, Will and another slave had a dispute over a hoe which Will claimed the right of using exclusively, since he had helved it in his own time. The foreman, who was also a slave, directed another negro to use the hoe, whereupon Will, after some angry words, broke the helve of the hoe and went off to work at a cotton screw about one-fourth of a mile away. The foreman reported the matter to Baxter, who at once went to his own house. While there his wife was heard to say: "I would not, my dear," to which he replied very positively: "I will." He then took his gun, mounted his horse, and proceeded to the cotton screw, ordering the foreman in the meantime to take his cowhide and follow at some little distance. He approached unobserved to Will, who was throwing cotton into the press, and ordered

him to come down. The slave complied, taking off his hat in an humble manner. The two were heard to exchange some words, which were not understood, and then Will began to run. He had gone ten or fifteen yards when Baxter fired, filling with shot a place twelve inches square in the back of the fugitive. Testimony showed that this wound might have proved fatal; but the terrified slave continued to flee. After a moment the overseer directed two other slaves to pursue him through the fields, saying, "He could not go far," while he himself left his gun and rode around the field. Here he met the fugitive and pursued him on foot. He soon overtook and collared him. At this time Will had run more than five hundred yards and not more than eight minutes had elapsed since he was shot. Stinging and bleeding from the wounds of that outrage and fearing a worse punishment all his instincts of self-preservation were aroused. He closed with his antagonist and in the struggle drew a knife and got his adversary's thumb in his mouth. The pursuing slaves now coming up were ordered to take hold of the enraged negro. In striking at these new foes Will wounded the overseer in the thigh. In further struggling he wounded him with his knife in the upper arm, and it was this wound that proved fatal. After dealing these blows the slave released Baxter's thumb and escaped to the woods; but later in the day of his own accord he surrendered himself to his master. The next day he was arrested. On being told that Baxter had bled to death from the wound in the arm, he exclaimed: "Is it possible!" After the escape of Will the other slaves found the overseer sitting where the struggle had been. He said to them: "Will has killed me; if I had minded what my poor wife said I should not have been in this fix." Will was tried in the lower court and convicted of murder. His plea was that he had been under the impression that his life was in danger and that the crime ought accordingly to be reduced from murder to

manslaughter; and on the strength of this plea he appealed to the Supreme Court of the State. In this court he was represented by Bartholemew F. Moore, then a young lawyer of no great reputation, and George W. Mordecai. Against him was the Attorney-General, J. R. J. Daniel.

It is the argument of Mr. Moore and the decision it won that has made this case famous. Bartholemew Figures Moore was born on January 20, 1801, near Fishing Creek, Halifax county. His father, James Moore, was a man of little wealth. The boy spent his early years on his father's farm and in attendance on such schools as were at hand. Not born to wealth he learned from the first to have sympathy for the lowly, and he retained throughout a long and active life a deep confidence in the common man. He studied in the school of Mr. John Bobbitt, of Louisburg, N. C., and in 1820 graduated at the University. He then studied law and in 1823 began to practice it at Nashville, N. C. It was a hard struggle for a young man starting a profession in those days without influence or position. He worked with quiet determination, reading assiduously. At the end of seven years he had made, it is said, only seven hundred dollars by his profession; yet the first five hundred that he had he spent in travel. In 1835, after twelve years of struggle in Nash, he returned to his native county and settled on a small farm near the town of Halifax. At this time his reputation had begun to broaden and success came more rapidly. He was thrice chosen to the General Assembly, and in 1848 he was appointed Attorney-General of the State. In the same year he removed to Raleigh, where he afterwards resided. In 1850 he was appointed a commissioner to prepare the Revised Code of the laws of the State, which was afterwards published in 1855. When the issues of the war came on he took a strong position against secession and expended all his energy to prevent that movement. In his will he said of this phase of his life: "I was unable, under my conviction of the solemn duties of patriotism, to

give any excuse for, or countenance to, the civil war of 1861, without sacrificing all self-respect. My judgment was the instructor of my conscience and no man suffered greater misery than did I, as the scenes of battle unfolded the bloody carnage of war in the midst of our homes. I had been taught under the deep conviction of my judgment that there could be no reliable liberty of my State without the union of the States, and being devoted to my State, I felt that I should desert her whenever I should aid to destroy the Union." After the war he was invited to Washington to consult with President Johnston in regard to the future policy with respect to the State. His advice was immediate restoration to the Union. The policy of negro suffrage and military rule later adopted he opposed continually. Though a Republican he opposed the excesses of that party in politics. He continued for the most part in private life until his death, November 27, 1878. His painstaking and laborious study of the law had brought him ample reward. At his death his estate was valued at more than $600,000.

It was while struggling against many odds at Nashville that he was retained in the case of The State vs. Will. I have been unable to learn under what circumstances he came to be interested in this case. It is possible that this being the case of a slave it was thought that there was no need to be careful in selecting a lawyer. Yet it must be confessed that such a surmise is not in keeping with the feelings of humanity and honor which have usually characterized members of the family of which Will was the property. At any rate no better lawyer, as the event showed, could have been employed.

The point of the case was the right of a slave to defend himself on due provocation from his master or from anyone in the position of the master. Would the provocation, which in the case of a white man would mitigate murder into manslaughter, be good in law in the case of a slave? Of

course such a problem involved the whole relation of a slave to his master. It was of special importance at this time because, as Mr. Moore said in opening his argument, there was then a tendency in public opinion to consider "that any means may be resorted to to coerce the perfect submission of the slave to the master's will; and that any resistance to that will, reasonable or unreasonable, lawfully places the life of the slave at the master's feet." It was necessary, he added, to find the line "between the lawful and unlawful exercise of the master's power."

The "tendency" here referred to had been indicated five years earlier in the case of The State vs. Mann (2 Devereux, 263), in which the point was decided as to a master's liability for a battery inflicted on his slave. Then it was decided that a master was "not liable for an indictment for a battery committed upon his slave." The opinion was delivered by Judge Ruffin, who said, and his words sound like the sentence of fate for the unprotected slave: The end of slavery "is the profit of the master, his security, and the public safety. The subject is one doomed in his own person and his posterity to live without knowledge, and without the capacity to make anything his own, and to toil that another may reap the fruits. What moral considerations shall be addressed to such a being to convince him, what it is impossible but that the most stupid must feel and know can never be true, that he is thus to labor upon a principle of natural duty or for the sake of his own personal happiness? Such services can only be expected from one who has no will of his own, who surrenders his will in implicit obedience to that of another. Such obedience is the consequence only of uncontrolled authority over the body. There is nothing else that can operate to produce the effect. The power of the master must be absolute to render the submission of the slave perfect. I must freely confess my sense of the harshness of this proposition. I feel it as deeply as any man can. And

as a principle of moral right every person in his retirement must repudiate it; but in the actual condition of things it must be true. There is no remedy. This discipline belongs to the state of slavery. They cannot be disunited without abrogating at once the rights of the master and absolving the slave from his subjection. It constitutes the curse of slavery to both the bond and free portions of our population."

The harshness of this opinion strikes us more forcibly even than it struck the illustrious judge who delivered it. Yet it is not difficult to see that it grew logically out of the theory of slavery. To overthrow it demanded a sagacious appeal to the humane spirit of the court. That was the line followed by Mr Moore. In opening his argument he laid down two propositions: "1. If Baxter's shot had killed the prisoner, Baxter would have been guilty of man slaughter at least; and 2. This position being established the killing of Baxter under the circumstances related was manslaughter in the prisoner." It was on the former of these propositions that he was confronted with Judge Ruffin's opinion in The State vs. Mann. Of these sentiments he said: "It is humbly submitted that they are not only abhorrent and startling to humanity, but at variance with statute and decided cases." "Absolute power," he continued, "is irresponsible power, circumscribed by no limits save its own imbecility and selecting its own means with unfettered discretion." The language of the court would have applied to slavery in ancient Rome or in Turkey, but it was in direct contradiction to the opinion of our own Judge Henderson, who had said that the master's power extended "to the services and labor of the slave and no farther," and that the authority over his life was reserved to the law. Judge Ruffin had added to his opinion the statement that he was gratified to know that public opinion would protect the slave from abuse under the harsh ruling of the law. This is an excuse that the

apologists of slavery to this day have not ceased to repeat. It was met by Mr. Moore most effectively: "Wherein lies the necessity to clothe the master with absolute authority over the slave? If this necessity exists public sentiment is not so strong as is claimed. If it does not exist 'the power is given for abuse and not to accomplish the object of slavery.' It would seem that the result of the opinion of the court was 'to teach the kind master how merciful and moderate he is in the midst of such plentitude of power and the cruel one how despised and desecrated he will be if he uses its legal license.'"

It is impossible to summarize here all of Mr. Moore's argument; yet I cannot refrain from introducing one eloquent outburst. Judge Ruffin had said in the opinion already quoted that the slave must be made to realize that the master's power was "in no one instance usurped." This, exclaimed the generous attorney, repressed thought and "reduced into perfect tameness the instinct of self-preservation," a result difficult to accomplish and lamentable if accomplished. But if the relation of slavery required "that the slave shall be disrobed of the essential features that distinguish him from the brute, the relation must adapt itself to the consequences and leave its subjects the instinctive privileges of a brute. I am arguing no question of abstract right, but am endeavoring to prove that the natural incidents of slavery must be borne with because they are inherent to the condition itself; and that any attempt to punish the slave for the exercise of a right which even absolute power cannot destroy is inhuman and without the slightest benefit to the security of the master or to that of society at large. The doctrine may be advanced from the bench, enacted by the legislature, and enforced with all the varied agony of torture and still the slave cannot believe and will not believe that there is no one instance in which the master's power is usurped. Nature, stronger than all, will discover many instances

and vindicate her rights at any and at every price. When such a stimulant as this urges the forbidden deed, punishment will be powerless to proclaim or to warn by example. It can serve no purpose but to gratify the revengeful feelings of one class of people and to inflame the hidden animosities of the other." Was ever the cause of the slave pleaded more eloquently in the land of freedom than by this son of the yoeman class before the highest tribunal of the land of slaveholders?

Attention was then turned to the question of provocation. Could a slave be provoked in law? Had Will been a white freeman or an apprenticed freeman, the crime would have clearly been manslaughter. Mr. Moore demanded for the slave all the consideration of a white man under like conditions, to whom he was simliar in feelings of resentment and in the instinct of self-preservation. The law had not required him to extinguish this instinct, and he accordingly had full right to plead a legal provocation. In conclusion the counsel referred to the necessity of defining the position of a slave in regard to his life. "I feel and acknowledge," he said, "as strongly as any man can the inexorable necessity of keeping our slaves in a state of dependence and subservience to their masters, but when shooting becomes necessary to prevent insolence and disobedience it only serves to show the want of proper domestic rules."

The slave Will was as fortunate in his judge as in his counsel. On the bench was William Gaston, as noted for his humanity as for his ability in his profession. To him fell the duty of writing the opinion. The task was performed clearly and emphatically. It was all on the side of the prisoner, clearly giving him the right of defence against his master's attempt to take his life. It declared: "Unconditional submission is, in general, the duty of the slave; unquestioned power is, in general, the legal right of the master. Unquestionably there are exceptions to this rule.

It is certain that the master has not the right to slay his slave, and I hold it to be equally certain that the slave has the right to defend himself against the unlawful attempt of his master to deprive him of life. There may be other exceptions, but in a matter so full of difficulties, when reason and humanity plead with almost irresistible force on one side, and a necessary policy, rigorous, indeed, but inseparable from slavery, urges on the other, I fear to err should I undertake to define them." The court hesitated to define exactly a legal provocation in a case like this. It did say that if a slave were excited into unlawful violence by the inhumanity of his master, it ought not to be concluded that such passions sprang from malice. "The prisoner is a human being," said the court, "degraded by slavery, but yet having 'organs, senses, dimensions, passions,' like our own." On the evidence no malice could be found, and, it was concluded, none had existed. The killing was accordingly a felonious homicide and not murder.

It was a notable victory and reflected as much credit on the State as on the brilliant and humane lawyer who had won it. It was quoted and commented upon extensively throughout the Union. It fixed forever afterwards the rights of a slave in cases like the one under consideration. In not another instance was a case of kindred nature brought before our courts. Most important of all it was a triumph of humanity and served to commit our law of slavery to a more lenient policy than existed in some other States.

JOHN S. BASSETT.

WILLIAM J. YATES.

William J. Yates was born in Fayetteville, N. C., August 8, 1827. His father was an invalid, and was what was known in those days as a "wheel-wright." His mother was a member of the M. E. Church for seventy-two years, and she neglected none of the training that her son ought to have. The grandparents of Mr. Yates were English and Welsh, having come direct from Great Britain to this country. From boyhood he was thrown upon his own resources, and gladly assisted in the support of his mother and the younger children. Early in life he showed great devotion and tenderness to his mother, and this feeling was kept up through life, for after he left his old home he made his annual pilgrimage to Fayetteville to see her. He would make any sacrifice for her happiness, and a portion of his first earnings were spent in purchasing a house and lot for her.

Mr. Yates' first permanent employment was in the printing office of the *North Carolinian*, a paper published in his own town, where he served as an apprentice for about seven years. At the end of this time he became a "journeyman printer" in the same office, receiving a few dollars per week for his labor. This enabled him to lay by a little money to be invested in something at a suitable time. The struggles of Mr. Yates' early life for an education are among the most conspicuous in the annals of the State. He was educating himself, and he had not the advantages of a college or university training, yet he was very eager to appropriate every idea that would benefit him in after life. He seems to have known in early life what his mission was, and therefore he began it with great earnestness and anxiety.

As a printer and journalist he was trained in the old school, which embraced such men as the able and celebrated E. J. Hale, editor of the *Fayetteville Observer*, and R. K.

Bryan, editor of the *North Carolinian*, both of whom were the soul of honor and of exceptional ability. These men were in active life while Mr. Yates was young and ambitious, and many were the valuable lessons he learned when he came in touch with them. Besides, they were in great sympathy with the young man, and encouraged him in his chosen field. His labor was not to go unrewarded, and at the age of twenty-seven he purchased the *North Carolinian*, and published it for a time. This step seemed to broaden him, and from that date he became one of the best thinkers in the State. The question as to what to do in an emergency never troubled him for a moment. He could weigh all the advantages and disadvantages of a proposed measure instantly, and with marvellous precision. This caused him to become a leader of opinion, and he was consulted frequently, both in private and public matters. His sound judgment and his strong moral character made him a safe adviser. "He was religious by nature and training, and his moral principle was granite."

The personal characteristics of Mr. Yates are especially striking. He abhorred any semblance of external show or anything that savored of vanity or egotism. These qualities were odious to him, and when met in a man always produced a look of disgust in his face. Those who knew him intimately say that a poor person never appealed to him in vain. He would give the last penny he had to one who actually needed it.

His foresight was phenomenal, especially in politics, where he seldom made a mistake as to men or measures. It is related of him that his judgment in matters of politics was so much sought after that the question, "What does Mr. Yates say?" was asked on every hand. People looked to him for the solution of questions which they could not decide at once for themselves. Breaking a promise was something that was utterly unknown to Mr. Yates. No matter how little the promise might involve, he would not

break it. He was also very kind to young men. He never tired in his attentions to young men in that line of business which was his life vocation.

Mr. Yates was once asked the secret of his success, and he very readily replied, "that it was owing to his individual efforts (blessed by a kind Providence), close attention to business, complying strictly with every promise made, studying hard, working hard, the use of the proper economy, and never engaging in but one business at a time: that of publishing a newspaper." And that *was* unquestionably the secret of his success. He never neglected any duty, never tried to do but one thing at a time, and never gave up a task till it was finished, though he was often forced to work till eleven or twelve o'clock at night.

Mr. Yates' love for the "Old North State" was akin to idolatry. He loved the masses, and may be called a man of the common people. With a wonderful rapidity he surveyed the various institutions of the State, saw their greatest needs, and proposed remedies for their deficiencies. He loved everything that tended toward the development of our resources, and he was never better pleased than when some movement was inaugurated for the uplifting of his fellow-men. He always attended the State Fair, believing it his duty to advocate every measure that might promote the best interests of North Carolina. Nothing that appealed to the philanthropist or the patriot failed to appeal to him. He had great State pride, and always felt that there was something great in the people of his own State. He reviewed the internal improvements of the State with a keen interest. He was always their strong advocate and promoter, and never failed to take a firm stand on every issue that involved the welfare of the citizens of North Carolina. Some one has said: "He was the best exemplar of home institutions and home rule we have ever known. For a man of his strong feelings and positiveness, he was the most conservative writer and adviser we have ever seen."

The State of North Carolina owes Mr. Yates an inestimable debt for the fight he made for education. He was one of the pioneers in the cause of the common schools of the State. He realized that in education there is power, and he registered his vow to disseminate the truth throughout the State. A higher type of citizenship was the burden of his heart, and he thought that this could best be secured by a system of good public schools. He was ahead of his contemporaries in his ideas of education, and we are just beginning to realize what he stood for in this field.

Mr. Yates was an earnest and consistent Democrat, having voted the straight ticket at every election; yet he never failed to criticise severely any wrongs in his own party. His strict loyalty did not make him blind to faults that needed correction, and his liberal views did not cause him to ignore a good measure in the Republican party. His partisanship never made him offensive.

In the fall of 1856 he sold his paper in Fayetteville and moved to Charlotte, N. C., and took charge of the *Democrat*, which paper he conducted till his death. Mr. Yates' strict business principles are best seen in his management of this paper. He published it for about thirty-two years, and during that time it never came out as a half-sheet on more than one or two occasions, and this would not have occurred, probably, had it not been for a destructive fire and the collapse of an adjoining building, which made it necessary for him to vacate his office. He had lofty ideas about journalism, believing that his greatest service to the State would be the publication of a clean newspaper. Not a single time did he debase it for any notoriety, his good judgment and modesty would not allow anything in its columns that would reflect upon the dignity of the distinguished editor. Through its columns he reached the people of the State as few editors have ever done. Back of every editorial was unchallenged sincerity and allegiance to every good cause, so his paper could not fail to have great weight

and influence where it circulated. His was one of the few permanent newspaper successes in North Carolina.

Mr. Yates' influence in politics was felt throughout the State. This was, doubtless, due to his remarkable foresight and the readiness with which he solved problems that demanded immediate attention. His love for politics never made him an office-seeker, but on the other hand, the office frequently sought him. During the earlier days of his life, official honors were repeatedly offered to him, but in every case he declined, believing that he could serve the State better in journalism than in office. Non-partisan offices were the only offices he would consent to fill. He stands out in bold relief as the typical citizen of North Carolina who cared nothing for the little offices that almost craze the minds of the politicians of to-day. Patriotism and love of state, not love of office and money, were the great principles that actuated him to service. He was broader than any political party, he was even broader than the State he served. His great popularity and influence led him to be chosen a member of the Council of State during a portion of Governor Ellis' administration in 1859 and '60. He also held the directorships in two railroads while they were being built, the Carolina Central and the Charlotte Air Line. In addition to these positions of trust, he served on what was known at the time as the "Literary Board" of the State, which board had the power to distribute the money set apart for the public schools before the war. Mr. Yates was also chosen a Trustee of the State University, which place he filled for a few years.

To show further that he touched the interests of the State in other respects, it is necessary to mention his appointments by the Executive of the State at different times. Reposing special trust and confidence in his integrity, the Governor, Thomas Bragg, in the year 1856, appointed him a delegate to the Southern Commercial Convention which met at Savannah, Georgia, in December of that year. In

1880 Governor Jarvis appointed Mr. Yates on a committee from this state to meet similar committees from Virginia, Tennessee, and South Carolina, to make arrangements for the celebration of the Battle of King's Mountain, which was to take place in October. Seven years later Governor Scales appointed him as a delegate to the Southern Forestry Convention which met at Huntsville, Alabama. Other minor appointments were made, but the above are sufficient to show what his attitude was toward every interest of the State.

The labors of this noble son of North Carolina for the insane have endeared him to every citizen. When the Insane Asylum at Morganton first threw open its doors, he was elected director, and he entered the service with all the earnestness of his soul, visiting the institution each month during his connection with its management. A very pleasant incident is told of him while he was director. His frequent visits made him so popular with the demented inmates that it became necessary for him to go through the asylum in disguise, in order to avoid the numerous kisses and embraces with which they saluted him. This did not secure immunity for him for any length of time, for they soon learned again who he was and the trick he was playing on them. No labor in which Mr. Yates ever engaged afforded him more pleasure than this labor for the unfortunates of the State. The directorship was an office which he really cherished. At his death the Board of Directors drew up resolutions of respect, an extract of which will show in what high esteem he was held: "To his wisdom, sagacity, and devotion is due, in large part, the efficiency with which the institution is to-day fulfilling its humane mission."

The best testimonials of the worth of this distinguished man to our State are to be found in the expressions of regret that followed the consolidation of the *Democrat* with the *Southern Home*, a paper published by Mr. J. P. Strong.

The paper resulting from the consolidation about October, 1881, was known as the *Charlotte Home and Democrat*, but Mr. Yates continued his connection with the paper, keeping up that great reputation he had for writing sensible and interesting articles. The *Fayetteville Examiner*, commenting on the consolidation of the papers, said of Mr. Yates: "His strong sense, independent judgment, and honest expression of opinion have obtained for him a high position among the journalists of the State, and secured great influence for the journal which he has for twenty-odd years conducted." The *Raleigh Biblical Recorder* said of him: "His paper has been a great favorite in this office. We liked his sensible and independent way of putting things." The *Charlotte Observer* paid Mr. Yates a high compliment in the following extract: "The *Charlotte Democrat*, under his management for nearly thirty years, has taken hold of the confidence of the people to an almost unprecedented extent. Conscientiousness has been its distinguishing feature and Mr. Yates' claim to that virtue in his valedictory is founded in obvious justice." For fear our testimonials become tedious, we shall desist from citing any more in this connection. Suffice it to say, that the newspaper fraternity from one end of North Carolina to the other, spoke in terms of great praise for the veteran editor of the *Democrat*. He was regarded by them all as one of the best newspaper men in the State. Men of both political faiths were sorry for him to give up his own paper, but his good judgment told him it was the thing for him to do.

After Mr. Yates moved to Charlotte he became identified with the people, and his name was loved in every household. He was a leading spirit in every movement that meant the upbuilding of the town in which he lived. Business men, doctors, lawyers, and bankers respected his intellect, for he was able to grapple with the profoundest problems of society. Dr. Jno. H. McAden said of him:

"He conducted the best weekly paper in the South, and made a continuous success as an editor." Mr. H. C. Eccles, a citizen of Charlotte, paid him the following tribute: "He was a good and valuable citizen, and his place in this community will be hard to fill. He will be missed as few men are."

Mr. Yates' phenomenal success as an editor should be an encouragement to the newspaper men of North Carolina. In his life is an example of consistency, honesty, and morality unsurpassed by few men that the State has produced. His one great aim was service, and in the service of his fellow-men he died. His death occurred October 25, 1888, after having spent that day in his office writing for his paper. The subscribers to his paper read the articles written by him the day before his death, while the brain that inspired them was deadened to all earthly things. His death was, indeed, lamentable, and in his demise the State lost a venerable citizen, a celebrated journalist, and his wife a devoted husband. No more loyal man could be found. He was faithful to every duty that devolved upon him. His sincerity and allegiance were proverbial. "He was an ideal elder brother." His hopes were concentrated in his brother, E. A. Yates, and him he encouraged and helped to educate, thus preparing him for that great sphere of usefulness which he fills to-day as a member of the North Carolina Conference. The inspiration from such a life as that of William J. Yates should be sufficient to show the editors of North Carolina that there is a great work for them. He has placed before them ideals lofty and pure. May they all be as faithful to their fellow-men as he was. If they will follow the lines marked out by him, there need never be any fear for North Carolina's journalism.

ZEB. F. CURTIS.

NOTE.—The material for this paper is taken from old papers and clippings belonging to the various members of Mr. Yates' family. Z. F. C.

WHAT I KNOW ABOUT "SCHOCCO" JONES.

Leaving out the early chronicle of Lawson, we have had four formal histories of North Carolina, Lawson's being a diary of his journeyings on his professional business of a surveyor, and the history written by Joseph Seawell Jones, of Warren county, North Carolina, being called "Jones' Defence of North Carolina." "Schocco" was a pseudonym, adopted probably because he was born near Shocco Springs, in Warren county, N. C., a place of fashionable resort then, and for some years after. Jones was a young man, full of enthusiasm, with an intellect of brilliant rather than substantial type, with eccentricity on the border line of insanity, sometimes considered the genuine article, and with a love of the sensational, which was the ruling passion of his soul. With the addition of that passion by which Wolsey and the "angels fell," you have a pen picture of a North Carolinian of the olden times, who filled a large space in the public eye of the State and whose sad history was a romance and a failure.

"Jones' Defence of North Carolina" was a development of the period. Dr. Williamson's History of North Carolina had been a failure as a history and not a success as a medical disquisition upon the fevers of Eastern North Carolina.

Xavier Martin's History succeeded Williamson's, and but for his removal from the State in the first years of the nineteenth century and the subsequent loss of his historical materials, his history would have supplied a great want.

Then came a long interval of quiescence about the State History, and its first revival was by the publication of some accounts referring to the Mecklenburg Declaration. It attracted considerable attention in the State, and the subject was given a new interest by the publication of a correspondence between ex-Presidents John Adams and Thomas Jefferson, in which correspondence Mr. Jefferson

had charged that the Mecklenburg Declaration was a fraud, and in connection with it had made some unjust imputations upon the patriotism and loyalty of the North Carolina representatives in the Congress of the Revolution. It excited a furor in the State. It touched our patriotism at the nerve centre. In this tide of popular sentiment in North Carolina, "Schocco" Jones was thrown upon the top of the wave of public indignation. He was fashionably connected, an habitue of the elite society of Shocco Springs, a native of the historic county of Warren, young, ardent and aggressive, and with an individuality of the most eccentric character. Voluble to a degree, his progress was not handicapped by modesty. The man and the occasion met. Jones had literary instinct, ambition, culture to some extent, and surely Mr. Jefferson was an antagonist worthy of his steel. He had the social feeling inordinately, travelled much, knew everybody, and wished to know everybody else, and his purpose to launch a shaft at the memory of the sage of Monticello became widely known. He became a pet of the distinguished men in North Carolina, and men whose lineage ran back to the foundation of the State were fired by his patriotic enthusiasm, and made him the custodian of their valuable family records, which he had no talent for preserving. It was proclaimed that he would prove that Mr. Jefferson was a plagiarist and that he had the Resolutions of Mecklenburg county on his table when he wrote the National Declaration of Independence.

"Jones' Defence" appeared and it added fresh fuel to the flame of patriotism. It did not give entire satisfaction to the mature judgment of the State. Some said it was inaccurate in statement, and others that it was too "efflorescent in diction," but it fired the youthful mind and was the basis of many a college essay and declamation.

PERSONAL RECOLLECTIONS.

About the time the "Defence" made its appearance, or while in the throes of expectancy, we were a Freshman or Sophomore at the University, and the news spread through the college that "Schocco" Jones was in the village and had come through the campus riding upon the shoulders of a stalwart negro. We were the librarian of the Philanthropic Society and on duty when the news reached us. Soon after, there came into the Library Hall a man, swarthy, tall, long-haired, wild-eyed, who introduced himself as Jo. Seawell Jones, of Shocco. He was attended by several students. The conversation was led by Mr. Jones, and it soon fell into the subject of his "Defence of North Carolina." His whole soul seemed absorbed in the subject. He was unsparing in his denunciations of Mr. Jefferson. He stated that he was then engaged in preparing a "Picturesque History of North Carolina" to follow the "Defence of North Carolina." We suppose now, that he meant an "Illustrated History of North Carolina," as he casually referred to some of the historic scenes on Roanoke Island.

We neither saw nor heard any more of "Schocco" Jones, except occasional mention of his being in Washington, and his prominence in society circles, until about 1836. Meanwhile his "Defence of North Carolina" had been generally read and it had various comments. It became a pyre at which the torch of patriotism was fired.

About 1836 it was reported in North Carolina that "Schocco" Jones had been involved in an angry personal dispute in Rhode Island, with a citizen of that State, about the Revolutionary history of North Carolina, which had resulted in a challenge from Jones to the field of honor. The challenge was said to have been accepted and the fight was to come off at an early date. In a short time came a Proclamation from the Governor of Rhode Island, forbidding the violation of the peace within the bounds of Rhode Island. A counter proclamation was promptly issued by

Jones, in which he intimated that the fight could be had across the little State of Rhode Island, without violating its laws. Meanwhile the public mind of North Carolina was on the qui-vive of expectancy.

While the public interest was at its height, a Scotch schoolmaster of the town of Edenton, named McLochlin, raw, credulous, sympathizing, came from Norfolk, Va., by the canal-stage route to his home in Edenton. The stage stopped at the "Half Way House" for dinner. While McLochlin was at dinner, there came from an inside door a man, wild-looking, haggard, nervous, abstracted, and took a seat beside him. He confided to McLochlin's credulous ear, the story of the fatal duel he had just fought on the Virginia line, where he had killed his adversary, and all for North Carolina. He said he was pursued by the officers of the law, showed him a handkerchief saturated with blood with which he had stanched the blood of his dying adversary, begged his help in this time of his greatest need, asked McLochlin if there was any one in Edenton who would shelter a man who had shed the blood of his enemy for North Carolina. Jones took his new friend to a private room, where he opened the tale of the tragedy. After long deliberation the name of Hugh Collins was suggested as the friend of the distressed. Oh, yes! Jones knew him well. Had met him in Washington in society circles. The very man!

It was arranged that McLochlin should go on to Edenton, go at once to Hugh Collins, who was then fishing a large seine at the old Sandy Point Fishery, and get him to meet Jones at the arrival of the stage in Edenton next day. McLochlin hied him home. Jones remained in hiding.

Jones came to Edenton next day. Collins was in waiting. Damon and Pythias were not more cordial than "Hugh" and "Shoc." A carriage was in waiting. Both were hurried in and off, and with rapid speed they were taken to the safe retreat of Sandy Point Beach. When

they arrived Jones, for greater safety, asked Collins to put out pickets to provide against surprise and to keep his private yacht manned with four stalwart oarsmen, ready at a moment's notice to take Jones to the southern shore of Albemarle Sound. "Hugh," full of the responsibility of his great charge, had everything ready as requested. The oarsmen never left their rowlocks. After a few days Jones came out from hiding, and for ten days no man in North Carolina has been more lionized, petted and feasted Jack Leary, a veteran wealthy seine fisherman, banqueted him with great and bounteous honor. Thomas Benbury, the oldest fisherman on the sound, claimed him as his honored guest. Others followed. If Jones had asked for $100,000 we believe he could have had an honored check for it in half an hour.

After some time spent in this round of festivity and honor, Jones went to Mississippi, where he hobnobbed with Seargent S. Prentis, whom "he had introduced into good society at Washington." Finally, in the wilds of Texas, in the days of the old Texan wars with Mexico, he died, a hermit, alone, deserted, unknown—with all his eccentricities a patriot, a lover of his old home, having done some good in his day and generation, and left a name among its historians.

R. B. CREECY.

DENNIS HEARTT.

If history consists of the lives of great men, whose names are "wrought into the verbs of language, their works and effigies in our houses," North Carolina should contribute many pages to the epitome of civilization; for her institutions, public and private, have been established by men of superior abilities, who have spared neither time nor resources in the founding of a great State. In journalism, as in economic and political growth, the pioneer work has been done by men of strong personal character, who possessed the art of citizenship as well as the talents requisite for their chosen work. These editors, though the remains of their labor often seem eccentric when compared with our modern journals, had great influence among the people, and their memories are forever perpetuated in the ideals of the State they served so well.

Among these pioneers of our press none were purer in public and private life, more energetic, or held greater favor throughout the State than Dennis Heartt, the foun der, and for nearly fifty years the editor, of the *Hillsborough Recorder*. Like many of our best citizens, Mr. Heartt was not a native Carolinian. His father was an English sea captain, who settled in New England. Here, in the village of North Bradford, Connecticut, November 6, 1783, Dennis Heartt was born. Very little is known of the young man's early life. In 1798 we find him in New Haven, apprenticed to Read and Morse, printers, the latter a brother to the inventor of the electric telegraph. The young compositor soon became very proficient in his work, and was able to set up 5,000 ems in one morning's time. It was while in New Haven that the following incident is told of Mr. Heartt. When setting up an article written by Noah Webster, the compositor changed the word *fashon* in the copy to *fashion*. In the proof-reading, the "Schoolmaster of the Republic" struck out the *i*. The printer then conformed to the copy,

but in the final proof the Lexicographer corrected his mistake, inserting the ubiquitous *i*. Later in life, when success had crowned his labors, Mr. Heartt frequently related this as an illustration of the trials and vexations peculir to newspaper men.

In 1802, having served his apprenticeship, Mr. Heartt left New Haven, removed to Philadelphia, and began life for himself. Here he married Elizabeth Shinn, of Springfield, Burlington county, New Jersey, whom tradition represents as "a very pretty little Quakeress." In 1807 he was one of the invited guests of Robert Fulton on the trial trip of the "Clermont." In 1810 he commenced the publication of the *Philadelphia Repertory*, a literary paper. Ten years later he migrated to Hillsborough, North Carolina, and on February 20, 1820, issued the first copy of the *Hillsborough Recorder*.

At this time the population of Hillsborough was 805, "of whom there were twenty-nine more males than females. Orange was a large and prosperous county, though its circulating medium was bank notes, there being little silver and no gold, and its bar had Judges Ruffin, Cameron, and Norwood among its numbers. Judges Badger, Murphy, Mangum, and Nash were then on the bench, or had recently resigned." These men were types of North Carolina's best life, and Mr. Heartt, by indomitable energy and constant application, won a reputation in the State second to none.

Many obstacles to a successful career presented themselves to the young editor. A new settler, coming from a distant section, he would naturally find some difficulty in gaining the confidence of the people and adjusting himself to his new social environments. The stage-coach, the only means of communication with the outside world, must have discouraged an editor accustomed to city life and a fast post-line to the nearest centres of trade. To these must be added the excessive labor and vexation caused by the

presses. "In those days the old, double full Ramage press was used with buckskin balls for inking the forms. Printing was executed under many difficulties. Types were costly and were used from ten to fourteen years. The forms were sometimes underlain with damp paper to bring out the impression. Mr. Heartt engraved the head of his paper, and with leaden cuts of various kinds illustrated his articles and advertisements. He made his own composing sticks of walnut wood, lined with brass. They were good sticks and I remember to this day the sound made by the types as they were dropped by the left thumb into their places." (Governor Holden, 1886.)

These are only a few of the discouragements encountered by Mr. Heartt. If "genius is the art of overcoming great difficulties," his name must be classed with those of Carolina's most gifted sons. His early training as an apprentice, his previous experience in journalism, and the energy with which he began his work soon enabled him to conquer his equivocal environments. He gained the confidence of the people, his subscription list quickly rose to five hundred, and for many years the *Hillsborough Recorder* was the best known paper in Central Carolina. For years, some of the oldest citizens have declared, the only literature found in their homes was the Bible and the *Recorder*, and they "would swear by either." The paper was popularly styled the "New Testament," for it was "true as Gospel." Such being the character of this representative of North Carolina's *ante bellum* life, let us examine some files, and behold in a few coarsely printed pages, worn and "seared like the yellow leaf," a true index to the social conditions of an age forever gone but never forgotten.

The earliest issue before me is dated March 1, 1820, Vol. 1, No. 4. "Published weekly by Dennis Heartt, at three dollars a year, payable half-yearly in advance." "Advertisements not exceeding fourteen lines will be inserted three times for one dollar, and twenty-five cents for

each continuance." "Gentlemen of leisure, who possess a taste for literary pursuits, are invited to favor us with communications." With the exception of a few advertisements, the first of the four pages is filled with articles clipped from exchanges; such as, "A Sketch of Illinois," from the *National Intelligencer*, a paper founded by a North Carolinian, an essay on "Domestic Economy," from the *New York National Advocate*, and a discussion on curing bacon taken from the *American Farmer*. Here is one of the secrets of Mr. Heartt's success in journalism. Instead of filling his columns with the worthless contributions of local literary aspirants, he gave his readers selections from the best current journals, which were usually of practical value to his subscribers. This issue also contains reports from Congress and condensed news from Spain, Paris and Berlin, which vary from three week to three months in age. Illustrations of the inefficient means of communication with other sections of the State are seen in the local notices, frequently no fixed date being given to events in neighboring counties. One of these reads as follows: "Married, a few days ago, in Franklin county, Mr. Robert Harrison, of Raleigh, to Miss Tucker." The advertisements are about fifteen in number, and are quaint in style and subject matter. They usually begin thus, "The subscriber, grateful for past favors, has the pleasure of announcing to the ladies and gentlemen of Hillsborough," etc. In one of these, five cents reward is offered for the capture of an escaped apprentice-boy, dressed in "a blue home-made coat, tow trowsers, and a wool hat. The above reward will be given for apprehending said boy and delivering him to the undersigned, without charges." On the last page we find two essays, "On Friendship" and "Domestic Happiness," written in imitation of that old, eighteenth century style, the literary ideal of the South seventy years ago.

In 1828 we find the paper enlarged, more modern in

appearance and contents, thus evincing the rapid development of the country. In the issues for this year, we get the first intimation of the editor's political opinions, for a motto, the battle cry of half the nation thirty years later, has found its way to the heading of the *Recorder*, "United we stand, divided we fall."

The next number is September 19, 1839. The paper has been further enlarged, now being about twice its original size. This is the first issue that takes an advanced stand on political questions, and here, also, an index to Mr. Heartt's views is found in the heading of the paper, "The Union, the Constitution, and the Laws—the Guardians of our Liberty." There is an account of the proceedings of an "Orange Republican Whig Meeting," held in the Masonic Hall of Hillsborough, Thursday, September 12. At this meeting a "preamble and resolutions were submitted by Hugh Waddell, Esq.," which fully stated the platform of Martin Van Buren and the failure of his administration; in conclusion they resolved, "That we cling with increasing devotion to the cause of constitutional liberty; that we feel it is a cause which can never be despaired of by freemen; and that we will use all patriotic means to assert and maintain the principles by which we are governed." Delegates were appointed to the State Whig Convention to be held in Raleigh, "the second of November next," who were instructed to support John M. Morehead for Governor and Henry Clay for President. The report is signed by John M. Smith, chairman, Dennis Heartt and Nathaniel I. King, secretaries. In an editorial Mr. Heartt speaks of the recent enlargement of his paper and his hope for its improvement. "But to realize this hope, the active assistance of his (the editor's) friends is required. He has perfect confidence in the justice of the cause and soundness of the principles which he advocates; and having truth for his polar star, he has neither wavered nor faltered, even in the darkest hour. He believes that the entire Whig party

are actuated by the same purity of motive, and in their determination to preserve undiminished their high privileges, are animated by a zeal not less fervent than his own. The rich legacy which was won by the active hands and strong arms of the Whigs of the revolution, the Whigs of the present day know can be preserved only by untiring watchfulness and jealous guardianship." This avowal of his allegiance to the Whig party expresses the spirit of Mr. Heartt's political faith. He was ever firm, but never extreme; always an optimist, too generous to make a charge against his colleagues or opponents of which he himself was innocent.

Within the next decade the political battles waged fiercer each year. The clouds of discontent which were to end in turmoil and disunion were constantly gathering and growing dark with the omens of war. Throughout this period of suspense, Mr. Heartt never faltered in his allegiance to the Union, but stood firmly by the principles of the Whig party. In 1844 the *Recorder* supported Henry Clay and advocated the following principles: "A Bank of the United States, and a sound National Currency. A Tariff for revenue with fair protection to American Industry. An honest and economical administration of the National Government. An equitable distribution of the proceeds of the sales of Public Lands." In 1848 Mr. Heartt supported Taylor and Fillmore. The issue for May 21, 1851, gives an address and resolutions before the "Southern Rights Association of South Carolina," which declare in no uncertain language for States' rights and secession. Mr. Heartt has an able editorial on this meeting, and also defends himself from the attacks of the *North Carolina Democrat*, a secession paper published in Hillsborough. A comparison of the title-pages of these two papers tells better than facts the position of Mr. Heartt during that long political struggle which precipitated the Civil War. The *Democrat* cries for "States' Rights; and a strict con-

struction of the Constitution." The *Recorder* holds to its old principle, "The Union, the Constitution and the Laws —The Guardians of our Liberty."

The last of these papers is dated August 27, 1867. "The cruel war is over," and the darkest days of "reconstruction" are at hand. The *Recorder* has not remained unimpaired by the desolation of the struggle, for its size is greatly diminished. Yet the editor maintains his fealty to the Union unshaken, declaring, "We shall pursue the same lights hereafter that have guided us hitherto—ever holding to our motto, 'The Union, the Constitution, and the Laws,' as the Palladium of our safety; and we are not without hope that wise counsels will ere long lead the country back to its former prosperity."

No one can read these papers without being impressed with the purity of their subject matter, the soundness of their principles, and the liberal spirit of the editor. "Talent alone cannot make a writer. There must be a man behind the book; a personality which, by birth and quality, is pledged to the doctrines there set forth, and which exists to see and state things so, and not otherwise; holding things because they are things." If this be true, Dennis Heartt was a representative man in journalism as in private life. He was never harsh or vindictive, and never allowed personal animosities to be expressed in his columns. In politics he was a staunch Whig. Though he owned no slaves and was opposed to that "dire institution," he did not go to the extremes of the abolitionists. In his own words, he always endeavored "so to constrain himself as

> 'Nothing to extenuate,
> Nor set down aught in malice,'

but in truth and soberness to do justice to all parties." "He never selected an article, or wrote a line for his paper which, dying, he could wish to blot."

As a man, Mr. Heartt was ever temperate, honest, above

suspicion, and habitually truthful. He was for many years a member and officer of the Presbyterian church. "He loved labor and was an indefatigable worker. We have known Mr. Heartt from our earliest youth and we have never known a purer or a better man. His was a heart that harbored no deception, his was a tongue that knew no guile, and his was an integrity that would not bend or deviate." (Editorial in a Raleigh Daily, November 14, 1870.) He was a man of strong personality, eccentric, but humorous and charitable. Of many who were influenced by his character, none have risen to higher distinction or paid a greater tribute to his memory than the late Governor Holden. A ragged, homeless waif, drifting aimlessly, with no protection from the ills of life, William Holden was taken into the home of Mr. Heartt and became his apprentice. At one time the boy's roving nature gained the ascendency and he ran away from his benefactor. Mr. Heartt advertised for him, offering five cents reward for his capture. The run-away saw this notice, secretly returned by night, entered the office of the *Recorder*, and set up some type which he placed in the form for the next issue. This work completed, the youthful compositor wrote on his desk, "From this day I will be a man." The next number of the paper contained a startling notice which advertised the *Recorder* and its editor for sale, fifty cents being the price set for both. A reconciliation then took place between master and servant. Holden served his apprenticeship, went to Raleigh and founded the *North Carolina Standard*, and was finally elected Governor. In 1886, before the State Press Association he gave the following testimony to his benefactor's character, "His integrity in all respects was perfect. No consideration could have induced him to abandon or compromise his principles, or to do wrong knowingly. I was a member of his family as one of his apprentices, six or seven years, and I knew him thoroughly. There were features in his character and con-

duct which I could not, then, understand, but in reviewing the past I have since seen him in his true light and I declare in this presence that the best man in all respects whom I have ever known was my old master and teacher, Dennis Heartt. * * * What a kind, good man he was! and he was thoughtful, careful, scrupulous and very industrious."

As a printer and editor, Mr. Heartt was devoted to his work. Journalism was his life-work, and he would not prostitute his profession to personal desire or ambition. Political offices and public honors, he could easily have obtained, but he was unwilling to desert the cause which he had early espoused and which had so abundantly repaid him for his labor. He was faithful and energetic. "He generally wrote his editorials two and even three times over, before giving them to the press." (*Hillsborough Recorder*, obituary notice.) "We have seen him, since he passed four score, write his editorials, set them in type, make up his form and even work off his paper at the press and then make up his mails. (He was then postmaster.) He was an ornament to his profession, giving dignity and character to it." (Editorial in Raleigh Daily above quoted.) He was modest and reticent. He was "a good scholar and wrote well, but he seldom presented his readers with a column of editorial in any issue. He was a man of refined taste and his selections were therefore excellent." (Governor Holden.)

In January, 1869, Mr. Heartt sold his paper to C. B. and T. C. Evans, of Milton, Caswell county, N. C., who had formerly edited the *Milton Chronicle*. May 13, 1870, he died. "His death cast a gloom over the whole town. Every store, even the saloons and shops, were closed the day of his funeral that all might attend it." He was greatly beloved by all the citizens of Hillsborough, and his name will long be cherished among the people of Orange county. As journalist he leaves us an example which the

modern press would do well to emulate. Always conscientious and sincere, he never printed a line which he did not believe to be true. His personality was seen through the columns of his paper. There never was a time when, in spirit, the *Recorder* was not Dennis Heartt, or the editor the living soul of the paper.

The *Recorder* passed from the hands of the Evans men to Col. John D. Cameron, who removed the paper to Durham, the name being changed to the *Durham Recorder*. In 1881 the paper was bought by Mr. E. C. Hackney, who still edits it. It is now the oldest newspaper in the State.

W. K. BOYD.

N. B.—Materials for the above article were taken from copies of the *Recorder* and papers of Mr. Heartt's family. W. K. B.

LANDHOLDING IN COLONIAL NORTH CAROLINA.[1]

In 1663 His Majesty Charles II, out of the abundance of his American lands, granted the province of Carolina to eight of the chief nobles of his court. These gentlemen retained the property until 1629, when they sold it to the King. Here it remained until the War of the Revolution. Although these two supremacies, the one of the Lords Proprietors and the other of the King, represent the two distinct periods in the history of the colony, they indicate but little interruption in the history of its private law. This is especially true of the law relating to land. The basis for the future government was the charter by which the Lords Proprietors received their property. When the purchase by the King was made, there was no beginning the government *de novo*. The Crown simply stepped into the place vacated by the former owners. Proprietary laws were for the most part confirmed or but slightly altered. We thus see the importance of the charter of 1663, and can understand why the people in their periodic revisions of the laws saw fit to insert this instrument as a preface to their codes. It is therefore from this charter[2] that we begin to trace the history of landlording in North Carolina.

Three facts relating to land stand prominently out in the royal charter. 1. Carolina was constituted a feudal seigniority, the Proprietors being authorized 'to have, hold, use, exercise, and enjoy the same [their privileges], as amply, fully, and in as ample manner, as any Bishop of Durham, in our kingdom of England, ever heretofore had, held, used, or enjoyed, or of right ought or could have

[1] Reprinted by permission from the Law Quarterly Review (London) April, 1895.

[2] The first charter was issued in 1663. In order to include a strip of territory to the north of the proivince, a second charter was issued in 1665. Except as to boundaries it differs in no material sense from the charter of 1663, but being the later it may be considered the more authentic. I have therefore used it.

use or injury.' 2. The Lords were to hold their lands 'in fee and common socage and not *in capite*, or by knight's service.' 3. They were to hold 'as of our manor of East Greenwich in Kent,' and to pay an annual rent of twenty marks, together with one-fourth of all gold and silver ore found within that region. This rent was a mere formality intended for a recognition of the King's ultimate dominion over the granted lands; still it is well to remember that it was eventually paid. At the time of the sale the Proprietors owed rent for seven and a half years, and that amount was deducted from the purchase price.[1]

The charter[2] prescribes the relation between the Proprietors and their future tenants. The Lords, so we read, may at pleasure 'assign, alien, grant, demise, or enfeoff, the premises or any part, or parcel thereof. to him or them that shall be willing to purchase the same, and to such person or persons as they [the guarantees] shall think fit, to have and to hold to them, the said person or persons, their heirs or assigns, in fee simple or in fee tail, or for terms of life, lives, or years; to be held of them [the Lords Proprietors] and not of us, our heirs and successors.' This grant involved a return to subinfeudation, and accordingly the King relaxed for the benefit of the Proprietors the statute *Quia Emptores*. To them also was accorded the right to erect seigniories and manors with the accompanying privileges of courts leet and barons. By way of being sufficiently explicit, the people who should settle in the colony were granted the right to hold their land on the above conditions, and were guaranteed the recognized personal and property rights of Englishmen.

The above-mentioned provisions represent one element in the development of the colonial land laws. That was the superimposed factor. It came from without. As it embodied the distinctive ideas of the promoters of the enter-

[1] Cf. Colonial Records of North Carolina, vol. ii. p. 723.

[2] The charter may be found in Col. Records of N. C. vol. i, p. 102.

prise it may be called the Proprietors', or the King's, contribution to the process of growth which was about to begin. There was another factor, one due to the conditions of life in the colony. As this was interpreted and demanded by the people it may be termed the popular contribution to the same process. These two factors were brought to bear on the English Common Law which the colonists may be considered to have carried with them across the Atlantic. The charter had granted to the Assembly the right to make laws 'consonant to reason and as near as may be to the laws of England.' As more distinctively American conditions arose it was a question as to where the Common Law stopped and where the colonial law began. Confusion arose, and in 1711 the North Carolina Assembly was impelled to declare, not only that the Common Law was binding in the colony, but that all English statutes, especially those confirming inheritances and titles of land, should be enforced[1]. This was not sufficient. In 1749 the Assembly by law declared which of the statutes of England should be recognized in the Colonial Courts[2]. So decidedly did the law swing away from its original mooring that in 1775 it was well out in the stream of a new development. It shall be our task to take up and explain the new features of the law relating to land as they came into existence in the colony.

Quit Rents. The most notable kind of landed estates in North Carolina, as in all the southern colonies, was the fee-simple estate held subject to quit rents[3]. It was due to

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1 Col. Recs. of N. C. vol. i p. 789. 2 See the Revision of 1752, pp. 293 304.

3 Mr. Justin Winsor falls into the error of saying: 'The efforts to colonize the seaboard region of North Carolina without giving the fee of the land to the people and without care in the selection of colonists, resulted in a failure even more complete than that of the Canadian colonists.' (Narrative and Crit. Hist. vol. iv, p. xxii.) If it were not true that lands held subject to quit rents are held in fee simple (cf. Williams, on Real Property, p. 124), it would still be necessary, in order to show the fallacy of this statement, only to remind the reader that lands were held in North Carolina in exactly

two facts: (1) the inability of the settlers to pay for their lands at once, and (2) the desire of the Proprietors to retain the rent as an acknowledgement of tenure between themselves and their tenants. The latter is shown by the later practice in the Proprietary Period of selling land outright while a very small quit rent was retained 'as an acknowledgment'[1].

The use of quit rents was retained throughout the Proprietary and Royal Periods, but it is doubtful if they were ever collected even fairly well. Yet in the Proprietary Period the amounts received from this source were considerable[2]. At two different times Thomas Lowndes alleged that the quit rents were sufficient to defray the ordinary expenses of the government[3]. Governor Burrington, however, does not corroborate this statement[4]. The long contest over the manner of paying quit rents, which was waged by the Assembly against Governors Burrington and Johnston, reduced the revenues from this source to a small sum. It was also difficult to collect them. The chief trouble was to get a correct rent roll. The basis of this roll ought to have been the records of the original grants and of the transfer of land between individuals. These records, however, were so carelessly kept that they could not be used for the purpose indicated. Several attempts were made to secure a general registration, but we have no evidence that any one of them was successful[5].

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the same manner as in Virginia and in South Carolina, and that these two colonies were eminently prosperous. It is more probable that poor harbours and a consequent lack of direct trade with Europe had far more to do with the slow growth of North Carolina than the prevalence of quit rents there.

[1] See Col. Recs. of N. C., i, pp. 383, 392, and ii, p. 58.

[2] Ibid. ii, p 169. [3] Ibid. iii, pp. 11, 49. [4] Ibid. iii, p. 149.

[5] See Ibid. ii, 34–5, and iii, 144. Also Revision of 1752, pp. 275–77, and Ibid. p. 280. [N. B.—We refer to the Colonial Codes as 'Revisions.' They occurred in 1751–2, 1765, and 1773. The laws of 1715 were a revision, but as they were never printed as such they appear in later Codes as original laws.]

Another source of trouble was the medium in which quit rents were paid. In early times the Assembly arranged a table of valuation by which certain products, called on this account 'rated commodities,' were to pass as currency. In these, quit rents were paid[1]. About 1715 the Assembly made these rents payable in colonial paper currency, then much depreciated[2]. To this scheme the Proprietors objected so emphatically that we find no further mention of it until the royal regime. Burrington, the first royal Governor, acting under instructions, brought in a Bill requiring payment in proclamation money. The Assembly demanded that the provincial money should be received also. Each party remained obstinate and the Governor prorogued the Assembly[3]; but that body continuing its demand was alternately prorogued and adjourned until when Burrington was removed from office in 1734 it had passed no Bill on this subject.

The dispute was passed on to Johnston, the next Governor, who at first succeeded no better than his predecessor. After fourteen years of contention this Governor, by heroically suppressing some of the counties and their delegations, managed to pass a quit-rent law that was in conformity with his instructions[4]. Three years later Johnston died in office, and early in the term of his successor the quit rent law was repealed[5]. A new law passed in 1752 seems never to have gone into operation[6]. In the meantime, the small amount of quit rents that was paid seems to have been paid in rated commodities[7].

Closely connected with the above discussion was another about the place for receiving quit rents. In early times they were paid on the farms of the inhabitants, and although Tynte[8]. and perhaps other Governors, were di-

1 Col. Recs. of N. C. iv, 920, and iii, 144. 2 Ibid. iii, 95.
3 Ibid. iii, 143. 4 Ibid. iv, p. xviii, and Revision of 1752, p. 285.
5 Revision of 1773, p. 123. 6 Revision of 1773, p. 167.
7 Col. Recs. iv, 920. 8 Appointed Governor in 1708. Ibid. i, 694.

rected to collect them at specific places, they continued to be paid as formerly. Burrington tried to make the same change, but failed[1]. In 1735 Governor Johnston, after also failing to get such a Bill passed through the Assembly, settled the matter by proclamation, and thereafter the few who chose or were compelled to pay quit rents took them to certain designated places.[2]

The rate of quit rents varied. In the earliest grants it followed the Virginia custom, which was one shilling for each fifty acres. The Proprietors were inclined to put it at a higher figure, but the Assembly petitioned against this, and the Lords agreed in 1668 that henceforth the inhabitants of Albemarle should hold their land on the same conditions on which land was held in Virginia[3]. This concession was known afterwards as 'the Great Deed of Grant,' and it was most carefully preserved. Throughout the colonial period it was considered the fountain of landed rights. Although the Proprietors continually ignored it, the settlers always appealed to it, and in 1731 all the people claimed to hold under it[4].

Escheat and Forfeiture. By their grant the Proprietors had the incidents of escheat and forfeiture as well as the minor rights of wreckage, wastes, fisheries, etc. These are the only survivals of the older feudal incidents in the colonial laws.

Land was granted on condition that it should be properly 'seated' within three years[5]. In 1722 it was held that this was done when the grantee had built a house on, and had cultivated one acre of, each tract granted. The Governor and Council decided whether or not this had been done, and the minutes of this body show that a large part of its business was hearing petitions to declare older grants forfeited and to issue new grants for the same.

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1 Ibid. iii, p. vi. 2 Ibid. iv, pp. xiv-xvi.
3 Ibid. i, 175. 4 Col. Recs. iii, 144.
5 Cf. the Virginian grants, Ibid. i, 59-67, and also Ibid. iii, 148.

Land escheated as under the Common Law on failure of heirs and for conviction of felony, treason, or *felo de se*[1]. We find but slight mention of the latter cause, most escheats being for failure of heirs, which was held to have occurred when there were no heirs in the province[2]. Like its English model, the County Palatine of Durham, North Carolina had an Escheator with various local deputies. His duty was restricted to deciding whether or not the deceased had heirs[3]. This he accomplished with the assistance of a jury of twelve men, whose verdict he communicated to the Council. Escheatable lands reverted immediately on the death of an intestate holder without heirs. This was important, because the person in actual possession at the moment of escheat might make composition for the land at twopence an acre[4]. The relatives of the deceased holder who were not heirs were given a preference in taking the escheated land on the payment of the composition money. The following was the order as established by the Assembly: the widow or the widower; the father; the mother; the eldest half-brother; the half-sister or half-sisters, each sharing alike; the nearest of kin; and finally the nearest person who should petition for it[5]. The composition money was all that was paid to secure the land, 'be the improvement more or less.' Heirs to land that had been escheated for seven years were debarred from suing to recover the same.

By the royal charter the Proprietors were granted the privileges of mines—for which they were to pay one-fifth of all gold and silver ore—together with the right to wrecks, fisheries, chases, etc. At first they reserved mines for themselves[6], but by 1712 they were granting them to individuals for a share of the minerals taken out[7]. The privileges of hunting, fishing, and hawking they readily

1 Ibid. i, 453. 2 Ibid. ii, 317, 323, 305. 3 Ibid. ii, 305.
4 Ibid. ii, 451, 452. 5 Laws of 1715, ch. 30; see Rev. of 1752, pp. 11, 12.
6 Col. Recs. i, 183, 237. 7 Ibid. i, 847.

granted with the land. They also established wreckers whose duty it was to recover 'all wrecks, ambergrice, and other ejections of the sea[1].' This office is mentioned in the early correspondence only, and it is probable that it was soon abandoned.

Conditions of Granting Land. In 1663 the land held by the whites in North Carolina was claimed either by purchase from the Indians[2] or by grant from Virginia[3]. The Proprietors recognized the latter grants since they were settled according to the usual Virginia allotment, but because the former were large and irregular tracts it was thought that they ought to be reduced to the conditions of the regular allotments. After thus stating their opinions they left Sir William Berkeley, then Governor of Virginia and one of the Proprietors, to settle the matter as he saw fit[4]. We hear nothing directly from Berkeley, but we have evidence that in each case holders were compelled to take out new patents[5].

The lands first taken were always those along the rivers, insomuch that it has been remarked that the early history of the colony was but the story of a 'search for bottom land.' The Proprietors tried to regulate this demand by saying how much of a grant should lie on a stream. In the Royal Period the King tried to secure a similar result, by directing that of a land grant the side lying on the river should not be more than a fourth of the side at right angles to it.

In 1665 the Proprietors made their first formal proposals to settlers. They offered to each free man who had already come into Albemarle county[6] eighty acres of land for himself and, if married, eighty acres for his wife. A free woman who had arrived with a servant was to have a like

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1 Ibid. i, 240. 2 Ibid. i, 19. 3 Ibid. i, 17, and 59-67.
4 Ibid. i, 53, 54. 5 Ibid. i, 253, 270.
6 Albemarle County lay in the northeast corner of the present State, and was the separate Government out of which the later colony grew.

amount. For each able-bodied man-servant, armed and victualled for six months, the master or mistress was to have eighty acres, and for each weaker servant, 'as women, children, and slaves' above fourteen years, forty acres. Every Christian servant was promised forty acres at the expiration of the period of servitude. Those who should arrive in the next three years were respectively to have sixty and thirty acres instead of eighty and forty. Those arriving in the year 1668 were to have just half as much as those who had already settled there[1]. These amounts were repeated with slight variation in the instructions to Governors until 1684 and perhaps still later, but it is possible that they were not put into practice. In 1694 it was the custom to grant fifty acres to each person brought in without regard to sex or condition. This was in imitation of the Virginia custom with which it was identical. At any rate, from 1694 'proving a right' meant in the colony taking up fifty acres of land for importing one person[2].

Abuses at times crept into the land office. One of these was allowing a man to prove a right for each time he had come into the country. One James Minge proved on one occasion six rights for himself and four for his negro Robin[3]. To remedy this evil the Council ordered in 1712 that thenceforth a man could prove but one importation for one person[4]. Another abuse was in surveying improperly. In 1729 Maurice Moore received a tract whose survey called for 1,000 acres. Twenty years later it was resurveyed and found to contain 3,834 acres[5]. Against this there was a law on the statute-books as early as 1715, and as late as 1752, which provided that if a man suspected his estate to contain more land than his survey specified he might have it resurveyed, and if the surplus were greater than one-tenth of the whole he should either forfeit the

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1 Col. Recs. i, 81, 88. 2 Ibid. iii, 424, 426. 3 Ibid. i, 635.
4 Ibid. i, 865. 5 Ibid. iv, 765, 1012.

same or take out a patent for it[1]. This, however, was a rather lame remedy, inasmuch as it left the initiative to come from the holder[2].

The right to receive land for importations could be proved either before the Council, the General Court, or the Precinct Courts. As the province became more extensively settled it was left almost entirely to the last-mentioned body. This condition, however, was reversed in the Royal Period, where we find it almost entirely in the hands of the Council, called for this purpose the Court of Claims.

A noticeable fact in the history of landholding in North Carolina was the usual smallness of the estates. Large estates would scatter the population and consequently would endanger the existence of a young colony. The people understood this, and one of their earliest laws—confirmed by the Proprietors in 1670—declared that no surveyor should lay out for one person more than 660 acres 'in one devidend,' unless the person had special permission from the Lords[3]. This law was to expire in five years, but its spirit continued. Early in the next century the Proprietors limited all ordinary sales to 640 acres in one tract[4], and the royal governors were instructed to the same end[5]. Larger grants were occasionally met with, but these rarely held over three or four thousand acres. To this there is one exception. In 1737 Murray Crymble and others secured a grant of 1,200,000 acres on which they obligated to settle within ten years one white person for each one hundred acres. The enterprise was hardly a success. When it was finally closed up much more than half of the land lapsed to the Crown, and the remainder was left in the hands of small holders. The whole affair was a speculation and left no impression on the land system[6].

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1 Revision of 1752, p. 10 (Laws of 1715, ch. 29). 2 Col. Recs. iii, 184.
3 Ibid. i, 186. 4 Col. Recs. i, 706.
5 Ibid. vii, 512, 543; also see Brickell, Nat. Hist. of N. C., p. 12.
6 See Col. Recs. iv. 253, vi. 718, 773, vii. 453, viii. 52, 63, 254.

When the King purchased Carolina one of the Proprietors did not sell his share of the land. In 1744 this share was laid off to him, and it fell in North Carolina[1]. The Proprietor was Lord Carteret, or Earl Granville as he had been created. He possessed his estates like any other private citizen. He continued to collect his fines, escheats, and forfeitures, as formerly, and to sell land for quit rents. When war broke out with Great Britain the State Government confiscated this property.

The Fundamental Constitutions and Land. We cannot pass to the more technical phase of our subject without speaking of the Fundamental Constitutions. As the Proprietors did not seriously attempt to put them into operation a few words will be sufficient here. In respect of persononal freedom they were liberally conceived. In respect of landed property and the social organization depending on it, they were decidedly reactionary. They were ill-suited to the people for whom they were intended, and met with slight respect from those who originated them. While it is doubtless true that the Lords desired to put them into possession, it is also true that they never seriously attempted to do it. Along with the first copy that arrived in the colony came a set of rules which were to be followed until the more elaborate system could be made to work[2]. These rules constituted a temporary constitution, and under that the government was conducted. This is as near as the famous system ever came to a vital existence. The political development of the people was steadily away from it. Being intended for a full-grown cock it remained but an unhatched chick, with a few oscillations but never a sturdy stroke. It lingered in an uncertain state for about forty years, and then passed out of sight so quietly that the most painstaking research has not been able to determine when it ceased to exist.

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[1] Col. Recs. 655.

[2] Ibid, i. 181.

The Fundamental Constitutions[1] recognized six classes of landholders; Proprietors, Landgraves, Caciques, Lords of Manors, freemen and leetmen. The first three classes constituted the hereditary nobility. The size of their estates was prescribed by law. Their lands were indivisible, inalienable, and descended according to the rules of primogeniture. These nobles could grant lands for not exceeding three lives or twenty-one years, provided they retained one-third of their property as demesne. Each of these three ranks were to constitute one of the four estates which made up the parliament. There were to be eight properties—one for each Proprietor—one Landgrave, and one Cacique in each County. The land of all these together was to be two-fifths of the County. Manors could be created within certain limits. They were alienable but not divisible. The Lord of the Manor could not grant a part of the manor for longer than three lives or twenty-one years. Each of these four classes had leetmen and could hold courts leet. The freemen held directly under the Proprietors as a body and were required—as well as all other landowners—to believe in a God, who was 'publicly and solemnly to be worshiped.' A leetman could not move off from his lord's estate without that lord's written permission. The rank was inherited or entered voluntarily. On the marriage of a leetman or a leetwoman the lord was to give the pair ten acres of land for their lives, and for this not more than one-eighth of the yearly produce could be taken as rent.

The Indians and Land. Sir Walter Raleigh's first expedition to Roanoke Island carried to England a young Indian chief called Manteo. Him the next expedition brought back so full of Christian ides that he was forthwith baptized and made 'Lord of Roanke.' This incident illustrates the attitude of the white man towards the red man's

[1] They may be found in any collection of Locke's writings; also in Col. Recs. i. 187.

land. Everywhere the former claimed all the land and then assumed to allow the latter to hold a part of it as a tenant. For a space the two parties lived side by side, usually as allies. Then there was war. The European won and was in possession to establish his claim.

This process is clearly seen in North Carolina. In 1691 the Proprietors declared that they had long since taken the Indians under their protection 'as subjects to the monarchy of England[1].' War came twenty years later, and immediately afterwards the Indians' lands were surveyed, that is to say, the savages were restricted to what we should now call 'reservations[2].' In order to secure this land to the Indians a law was passed which forbade any white man without the consent of the Council to purchase any land that was claimed, or actually possessed, by an Indian[3].

The estate of the Red Men in their land was merely one of possession. An Act of 1729 (chap. 2) stipulated that the transaction under consideration should not be construed to 'invest the fee simple of the said lands in the Indians.' If, however, an Indian held land individually this Act was not to apply to him[4]. In 1748 (ch. 3, 2d section) an Act was passed to ascertain the bounds of the Tuscarora lands. These lands had been confirmed by treaty in 1713. They were now confirmed anew to the Tuscaroras, their heirs, and successors for ever, or so long as they should live on them. The Indians were to pay quit rents, and no person for any consideration was to purchase any of the land. Those whites then living on it were required to leave at once, but persons who had received grants for parts of it might enter and enjoy the same as soon as the savages had moved off[5]. When in 1776 (ch. 29) the Tuscaroras as a tribe sold their lands and left the province,

1 Col. Recs. i. 378. 2 Ibid. ii. 140, 316.
3 Revision of 1752, p. 39 (Laws of 1715, ch. 59). 4 Ibid. p. 72.
5 Ibid. p. 247.

the transfer was sanctioned by the Assembly. The mere consent of the Council does not seem to have been considered sufficient[1] to convey a good title.

Alienation. The ordinary form of land transfer in North Carolina was the deed. Its popularity was perhas as much due to the fact that it was employed by the Proprietors in granting lands to settlers as to its superior convenience. It seems to have supplanted all other forms, except perhaps lease and release. Certain it is that fines and recoveries were not in use in North Carolina[2].

The absence of fines and recoveries caused inconvenience in reference to two kinds of transfers: (1) conveyances by femes coverts, and (2) the barring of entails. In regard to the former it was the early custom for the husband to convey with his wife's consent or for both to convey jointly, acknowledging the conveyance in Court after the wife was privately examined. By Act of 1715 (ch. 28) the latter was made the proper method, but the law was declared not to apply to entails. A difficulty arose from the inconvenience of getting the consent in Court of a feme who was either seriously sick or out of the province. In 1751 this was remedied by requiring in such cases, in addition to the husband's acknowledgement, a commission from the clerk to some third party who was to examine the wife as to her consent and report under oath to th Court[3].

In the early period entails were barred by private Acts of the Assembly. The expense of this prevented ordinarily the alienation of small estates tail. In 1749 (ch. 4, 1st session) the Assembly enacted that entailed estates of less than fifty pounds value should thenceforth be alienated by a deed of bargain and sale for a valuable consideration actually delivered. Such a conveyance was to pass the fee and to bar the entail, remainder, and reversion. To determine the value of such an estate the Secretary of the

[1] Revision of 1773, p. 369.

[2] Revision of 1752, p. 9 (Laws of 1715, ch. 28).

[3] Ibid. p. 337.

province was to issue a writ *ad quod damnum* under which the Sheriff was to appoint a number of 'good and lawful men' to value the land in question and to report on the same. Such a deed of bargain and sale must be acknowledged in Court and duly registered[1]. The more valuable entailed estates continued to be barred, as formerly, by means of private bills.

Alienation by inheritance followed the general English practice, which was primogeniture. This view is supported by two facts. (1) There is not on the statute-book any law which interferes with primogeniture. We should therefore expect the English practice to prevail. (2) We find in various records several references to the 'heir-at-law' in a way which indicates that one of the heirs[2] of an intestate ancestor had landed right superior to those of the other heirs[3]. The Act cited in note 3 indicates that primogeniture was stronger in the colony as a custom than as a right. Its importance was generally lessened by the free alienation by wills and by the ready sale of land for debt. As for wills, they were made under the statutes 32 & 34 & 35 Henry VIII. Social and economic reasons made it difficult for an estate to pay off the debts of its owner,

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1 Revision of 1752, p 291.

2 It will be remembered that the American use of the word 'heir' is much wider than the English use of it.

3 An Act in 1766 (ch: 5)—which is not the first time this Act appears in the Laws—directed the administrator of an estate to give the widow one-third and to distribute the remainder among the children. If any child 'not being the heir-at-law' had received property from the intestate by settlement or otherwise, it was to be counted in his share of the distributed property. 'But the heir at law, notwithstanding any land that he shall have by descent, or otherwise, from the intestate, is to have an equal part in the distribution with the rest of the children, without any consideration of the value of the land which he hath by descent or otherwise from the intestate.' In this Act the term 'heir-at law' is used three times. See also Revision of 1773, p. 343; also Revision of 1765, p. 282. We also note that in 1729 Governor Burrington complained that certain executiors in trust had detained 'the residum from the heir-at-law,' after paying legacies. Cf. Col. Recs. iii. 28.

and consequently it was thought best to sell it. By an early law the lands of persons who had left the colony were held for debt[1]. This was repealed in 1746. An English statute (5 Geo. II), called 'An Act for the more Easy Recovery of Debts in His Majesty's Plantations,' relaced these laws. In 1764 North Carolina made a law supplementary to the British Act, but it was disallowed by the King[2].

Registration. From the beginning land deeds were required to be registered. In 1665, twelve years before the Statute of Frauds, the proprietors established the office of Registrar. The Registrar's duty was to record grants from the Lords as well as 'all conveyances of land howse or howses from man to man, as also leases for land howse or howses made or to be made by the landlord to any tenant for more than one year[3].' The first deed registered was the valid one. At first a deed must be proved by two witnesses before the Governor or 'some Chief Judge of a Court.' Gradually the function was taken away from the Governor, and by 1715 it was centered in the local, or Precinct, Courts, where it remained ever afterwards. This law of 1715 (ch. 38) provided that all land deeds, except mortgages, must be registered within twelve months or they would not convey a valid title. Deeds thus executed passed 'estates in land, or rights to other estates, without livery of seizin, attornment, or other ceremony in the Law whatsoever.' The first deed registered was the valid one, but if a first mortgage should be registered within fifty days a second one previously registered should not invalidate it. The giver of a second mortgage, the first remaining in force, was to lose its equity of redemption. Finally, a mortgage should not bar a widow of her right of dower[4].

This law did not entirely accomplish its object. In 1741

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1 Laws of 1715 ch. 18; also Col. Recs. iii. 182.

2 Revision of 1765, p. 358, and Revision of 1773, p. 328.

3 Col. Recs. i, 79.

4 Revision of 1752, p. 20.

many persons through either ignorance or neglect had failed to register their deeds within the proper time. These were relieved by having their time extended one year. In 1756 the same class of delinquents had the time extended two years, and this same law was after that re-enacted five times before 1773.

An interesting fact in this connection is the adherence to the ancient custom of 'processioning lands.' In 1723 (ch. 4) an Act was passed providing that 'the lands of every person in this government shall be processioned and the marks renewed once in every three years.' Two freeholders, appointed for the purpose, and such others as would go along, were to go over the bounds of the land, finding and renewing the marks. These two men made report of their action to the Precinct Court, where the report was preserved by the clerk. Persons whose lands were twice 'processioned' were to be considered sole owners and might plead this Act to that end; provided, however, that this law should not defeat the rights of reversion and remainder, or the titles of orphans, femes coverts, lunatics, &c. Persons having these rights were to have liberty to sue for their rights within three years after the removal of disabilities[1]. The law for processioning remained on the statute-books in 1773, but it is likely that it was but poorly enforced[2].

Occupation. In the laws of 1715 (ch. 27) it was provided that all persons who who held titles through sales made by creditors, by husbands and wives jointly, by husbands in right of their wives or by endorsement of parents and who without suit in law should continue in possession for seven years, these persons should have the legal title. Moreover, persons claiming lands, tenements, and hereditaments must present their claims within seven

[1] Revision of 1752, p. 54.

[2] It was re-enacted in 1792, and further amended by chap. 28, 1816.

years after the rights descended or accrued, or be debarred from suing afterwards. Orphans, femes coverts, and infants were allowed three years in which to make claim after the disabilaties were removed[1]. This law may possibly be very old law, for as has been said, the laws of 1715 were mostly revisions. Perhaps it is not too much to connect it with a provision of the Proprietors in 1665 which declared that all who quietly enjoyed their land for seven years should not be required to resurvey them for any consideration whatsoever.

The above law deals with occupation where there is 'color of title.' As to occupation 'without colour of title,' we find no mention of it in the early history of the colony. It is as late as 1755 (ch. 5) that we find a law allowing a good title to those who could prove undisturbed possession for twenty years. Here also infants and femes coverts could sue within three years after removal of disabilities[2]. This law was on the statute-book of 1765, but in that of 1773 it was indicated as 'repealed by proclamation.' It embodies the only legislation on the subject that is to be found in the colonial laws.

JOHN S. BASSETT.

[1] Revision of 1773, p. 4.

[2] Revision of 1765, p. 270.

RUNNING THE BLOCKADE FROM CONFEDERATE PORTS.

One of the most thrilling phases of the history of the Civil War is that which deals with running the blockade from, and into, the Southern ports. The absolute dependence of the South on European markets, both to sell her cotton and to obtain military supplies, induced the Confederate government early in its existence to foster blockade-running as much as possible. The convenience of neutral harbors in the West Indies, the Bahamas, and the Bermudas was especially fortunate for such plans, and the year 1861 was not half gone before a number of fast sailing, low built, duskily painted ships were plying with much regularity between these islands and Wilmington, N. C., Charleston, Savannah and other Southern harbors.

The destination of a blockade runner was usually Nassau. This place, until it became the metropolis of the blockade trade, was of very little commercial importance. Its inhabitants had supported themselves by a thriftless kind of agriculture and by a sharp—some times too sharp—practice of wrecking. They were idle, good natured, and unambitious. Had it depended on them to manage the blockade trade, the Southern Confederacy might have perished of starvation. English merchants, as well as the Southerners themselves, saw the favorableness of the situation. Ere long the streets and quays of Nassau filled with sharp-eyed men, whose whole bearing betokened the speculator. Agents for London firms opened offices and erected warehouses. Ships began to unload vast quantities of war supplies. The harbor swarmed with craft of all kinds. The one hotel, which had hitherto been a ruinous investment, now became a handsome property. The docks were crowded with rollicking sailors and lounging natives, the latter finding as stevedores the best employment they had ever had. Living of all kinds became extravagantly dear. The men who had so suddenly swarmed thither

were able to live high. The salary of the captain of a blockade runner was more for one month than that of the governor of the island for a year. The English garrison found the expense of living so great that they felt constrained to apply to their government for an increased allowance.

Of course the business of running the blockade was very profitable. The inward bound cargo was purchased at low figures in Europe and sold at high prices in the Confederacy. The return cargo was composed chiefly of cotton bought in a flooded market in the South and sold in a famishing market in Liverpool. As the war continued, these profits increased. If a ship could make only a few successful trips, the profits would be enough to enable the owners to realize a handsome sum, even though she should thereafter fall into the hands of the Union authorities. Those ships that made from twenty to fifty trips—and there were not a few of them—brought immense wealth to their owners. The officers and crews on such ships received, besides their liberal wages, a portion of the profits of the enterprise. While on shore at Nassau they were well provided for by the agents of the London owners. They were usually jolly and reckless fellows, willing to take a great deal of risk and quick-witted enough to extricate themselves from many a tight place. Many of the captains were Englishmen of prolonged naval experience. Some were officers of the English navy, who, tired of the inertia of life on half pay, volunteered in the present business, both for the money and the adventure to be had. If the ship were captured by the Americans there was no great danger for such men. The vessel would be taken to New York, where the ship and cargo would be confiscated, and those of the crew who were not Americans would be released as citizens of a foreign nation. An English officer in this service usually went under an assumed name. For instance, a certain "Captain Roberts," who commanded a

boat called "The Don," was in reality a titled officer in the British navy, and ended his life many years later as a high officer in the Turkish navy. He made six trips from Nassau to Wilmington and returned to England with a snug fortune.

Actually going through the blockade was not so perilous as one may at first be disposed to imagine. The attempt must be made on a dark night. The low-decked vessels were painted as nearly the color of the water as possible, so that they could not easily be discerned from a distance. The success of this feature of their construction is seen in the fact that one of them falling in during the early morning with a number of American cruisers on the South Carolina coast decided to lie to as near the coast as possible. Behind her was a dark outline of forest and here she lay for a whole day unrecognized by the several passing cruisers, who would gladly have snapped her up if she had been discovered.

A blockade runner, having loaded in a Southern port, would wait until a dark night and then, dropping down the harbor during the afternoon and lying concealed behind some highland till the tide was highest, she would make a sudden dash between the grim sentinels that composed the blockading squadron. It was something of an experience to go scooting at a sixteen-knot speed through a swarm of bellowing men-of-war, to hear the shots that were meant for your own unprotected hull whistling over your head, and to know that the next shot might be the one that would send your own craft to the bottom. Over such a scene would glare the rays of the Drummond Lights, which were burnt to reveal the whereabouts of the fleeing vessel. Great as the danger seems, it was not without elements of safety. The excitement often confused the gunners on the blockaders so that their shot went astray. Ten minutes of full speed through such an ordeal was enough to put a swift vessel out of immediate danger. An

hour more would put her beyond the reach of the squadron. From that time the trip might be uneventful until the neighborhood of Nassau was reached. Here a number of cruisers might be expected and the navigator must call forth his most careful seamanship. The Southerners used to complain that this was a virtual blockade of a neutral harbor, but could not get the British government to see the matter in that light. Here the danger was less than on Southern coasts, for the cruisers, being compelled to keep three miles from shore, could not concentrate so as to guard the channel. They accordingly were compelled to try to run down their victims. It created no surprise to see a smart blockade runner come flying into the harbor with an angry Federal cruiser closely at her heels. It was not always possible for the pursuer to refrain from sending a parting shot across the bow of the fugitive, even after the neutral line had been crossed. An hour later both ships might be lying at the same dock and their officers dining in the same hotel.

One of the best situated ports in the South for blockade running was Wilmington, N. C. After the capture of Norfolk, Va., it was farthest north of all the better Confederate ports, and consequently nearest to the most considerable military operations. The mouth of the Cape Fear river is surrounded by shoals and it discharges its waters through two channels or inlets. It was almost impossible to blockade such a place. The blockade runners, who carried their own pilots, often picked out safely and deftly the channel and triumphantly made the port, while the pursuing gunboats went aground on the shoals. Not all of the blockade runners, however, were so fortunate. The approach to the river is to this day lined with the wrecks of the unfortunates that in the ardor of flight ran on the shoals and were not able to get off again.

Of the vessels of this description that came into Wilmington, perhaps the best known was the *Ad-vance*—

named in honor of the wife of Governor Vance. This was a fast steam packet built on the Clyde, and known there as the *Lord Clyde*. She was purchased by the State of North Carolina and used in bringing in supplies for the army, as well as other freight. She made twelve trips successfully and her arrival on each occasion was hailed with thankfulness by the starving people of that State. At last she was captured on account of defective coal. She had been obliged to give up part of her regular supply of anthracite to a cruiser that had brought in two rifled guns for the forts, and to take instead a supply of coal from the Egypt mines. This choked the flues and made so dense a smoke that her course was revealed, and she was chased and captured. Another notable blockade runner from this port was *The Siren*, a fast but small boat of great beauty, that made as many as fifty successful trips.

The actual conditions of life on a blockade runner may best be seen by following the experiences of a captain engaged in that business. One of the best for this purpose is the experience of Captain John Newland Maffit, which I shall relate.

Early in 1862 Captain Maffit sailed about dusk from Nassau for Wilmington, N. C. At daybreak on the following day he found himself in the company of three American cruisers. Increasing speed to the fullest capacity he sailed away from these although they fired briskly. In a few hours he discovered two more just ahead and sailing straight for him. These he managed to escape by running a zig-zag course. A short time later he came across a Spanish ship on fire. Sending a man aloft to keep a sharp lookout, he sent an officer to the distressed vessel. The flames were soon extinguished, thanks were returned, and Captain Maffit sailed on his hunted way. He especially relished the aiding of the Spaniard, because on board of her were two New England ladies returning from a visit to Cuba. He chuckled to think what they would have said

had they known they had received aid from a blockade runner of the Confederates.

On the evening of the succeeding day he found himself without further adventure seventy miles southeast of Wilmington. He dashed off sixty miles at full speed and arranged to pick his way carefully through the blockaders for the other ten. The usual shore lights had been extinguished for fear they might aid the Federals in some scheme of night attack. Says Captain Maffit: "Success in making the destined harbor depended on exact navigation, a knowledge of the coast, its surroundings and currents, a fearless approach, and the banishment of the subtle society of John Barleycorn." In this case his calculations were well made. Just as the lead indicated he was nearing the shore, he heard seven bells strike ahead of him. It was the time for high tide on the bar, as he expected it should be. Looking forward he could dimly make out two men-of-war, so placed as to indicate that the channel lay between them. He decided to dart through, hoping to pass unnoticed, and ordered full speed ahead. A hissing sound, followed by the ascent of a rocket, told him he was mistaken in this. Suddenly a speaking trumpet, that seemed to project over his very deck, commanded: "Heave to, or I will sink you!" "Ay, ay, sir!" came the reply. And then in a loud voice: "Stop the engines!" Every Confederate heart sank. The dreaded fate they had feared so long had come. It was surrender. By this time the momentum of the vessel had carried her beyond the two sphinx-like sentinels, who were making ready to send a boarding party. The gruff voice again rang out: "Back your engines, sir, and stand by to receive my boat." "Full speed ahead, sir, and open wide your throttle-valve!" said Captain Maffit, in a low voice, to his engineer. In the darkness the Federals could not tell that the vessel was not really backing, and, having gotten ready to board, their gunners were not in position to fire instantly. They were soon undeceived and hurriedly opened fire. They

burned Drummond lights, but the mists refracted the rays so as to raise the ship above her true position. Accordingly, many shots passed over her hull, but none struck it.

The next few moments were anxious ones for those on board with Captain Maffit. The ship carried nine hundred barrels of powder, and a hot shot into these might send the crew to a fate more awful than capture. As a matter of fact they escaped by a few moments of rapid sailing, and a short while later they were quietly anchored beneath the guns of Fort Fisher. Next morning the vessel proceeded at an easy sail to Wilmington, where she quietly unloaded her cargo. The gunpowder was sent to the front, and General Johnston used it a few days later in fighting the battle of Shiloh. It was a thrilling adventure, and it illustrates, and better than anything else, the life that men who ran the blockade lived and the spirit it was necessary to have in order to go through it. It indicates one of the most worthy fields of investigation in the whole story of our notable war.

JOHN S. BASSETT.

THE LEGAL REGULATION OF PUBLIC MORALS IN COLONIAL NORTH CAROLINA.*

The first provision made for a church in North Carolina was in the charter granted to Sir Robert Heath in 1629. Other church provisions were re-enacted in charters to the Lords Proprietors in 1663, and in 1665. Of course these provisions were for a state church, all the efforts on the part of the authorities in England being in this direction, that is to say, to incorporate church and state. The first effort to put these provisions into practice was the vestry act of 1701. Another act, that of 1704, precipitated the Cary Rebellion. From 1730 till 1773 the "Schism Act" was enforced.

*In preparing this paper I have consulted "*The Public Acts of the Assembly of the Province of North Carolina,*" and "*Church and State in North Carolina,*" by S. B. Weeks, Ph. D.

The British Toleration Act, or Act of Indulgence, of 1689, defined the position of dissenters from the Established Church. Dissenters were allowed places of worship protected from disturbance, if they took the oath of allegiance and subscribed to the declaration against transubstantiation. But such congregations had to be registered, and the doors of their meeting-houses left unlocked and unbarred. All ministers had to endorse the Anglican creed, except that Baptists were relieved from subscribing to the doctrine of infant baptism, and Quakers must adhere to the government, abjure transubstantiation, profess faith in the Trinity and in the inspiration of the Bible. Dissenters were excluded from the English universities, and the Anglican ceremony alone was good enough to tie the matrimonial knot. The Corporation and Test Acts kept many from entering corporations or holding public offices.

From 1701 till 1710 there was much opposition to the Establishment, but in the latter year the churchmen got the upper hand and held it for some time. Unexecuted statutes provided for from £30 to £50 for ministers' salaries. The vestry act of 1715 was the first church act to come down to us. The legislation of this troubled period clearly indicates that the right to dissent was not yet to be recognized. The vestrymen appointed in the various parishes were compelled to subscribe to the Anglican creed under pain of a £3 fine, unless they were avowed dissenters. Vestrymen and church-wardens were granted power to purchase glebes and build churches in each precinct with money levied on the poll and collected under a heavy penalty in case of refusal or neglect of payment. But laws are hard to enforce where the moral sentiment of the people is not behind them.

After all this legislation churches and ministers were hard to find in the province, for salaries were small and hardships numerous. The Society for the Propagation of the Gospel, to supply the great need of preaching, now sent missionaries to this promising field. The first eight

who came under the auspices of this society were either extremely weak or vicious. Some were cowardly and vacillating; some were knaves, some thieves, and one was a drunkard. John Urmstone was fond of cider, rum, and trading. He was called "the starving missionary," from his continual complaint of hard times. He was the plague of the church in the province for ten years. This dissipated, worldly-minded divine suddenly disappeared in 1721—presumably to ask of St. Peter admittance at Heaven's gate. It is said the cause of Christ would have been the gainer had he never set foot within the borders of the colony. He was a slave-owner, a liquor-vender, a chronic grumbler, an incorrigible liar, and very avaricious. He administered the sacrament twice in the space of five years. He was much worse than the men he came to save. The next two missionaries, James Adams and William Gordon, were good men. The former remained in the province four months, the latter two years, although suffering greatly in both body and mind. He administered the sacrament several times and baptized nearly three hundred persons.

The Establishment is largely responsible for the backwardness of the State in education and intellectual pursuits. No school teacher was allowed to leave England or to keep school in the province without license from the bishop of London. Restrictions were placed on all schools. In fact, the establishment of schools was not encouraged. While the Occasional Conformity Bill, supplemented in 1714 by the Schism Act, was intended to exclude dissenters from all posts of honor, power and profit, the Schism Act did operate to crush their seminaries and deprive them of the means of educating their children. This was the heritage the mother country gave us. Under these restraints the people were restless. Their opposition had a wholesome effect upon the rulers. The spirit of fear went far toward mitigating the original instructions of the governors. The people were opposed to paying taxes imposed in the name

of religion, when that religion was construed to be identical with conformity to the established church. Out of a poll tax of five shillings imposed for religious purposes, little more than enough was collected to pay the readers who officiated on Sunday, and the occasional clergyman coming from Virginia to preach before the Assembly.

In 1734 Gabriel Johnston became governor. Notwithstanding their folly clearly exposed by former failures, the same instructions that had been sent to Gov. Burrington were repeated to Gov. Johnston, including the church acts and the Schism Act. Gov. Johnston was zealous for the Church. The condition of public morals was painful to him. He reminded the Assembly that the instructions for establishing the clergy were already on their books. He was much grieved at the deplorable and almost total want of divine worship in the province, and wrote feelingly and eloquently about it. In his address to the Assembly in 1739 he says: "The establishment of the public worship of Almighty God, as it is the great foundation of the happiness of society, and without which you cannot expect His protection, deserves your earliest care. That in such a wide-extended province as this is, inhabited by British subjects, by persons professing themselves Christians, there should be but two places where divine service is regularly performed, is really scandalous. It is a reproach peculiar to this part of His Majesty's dominion, which you ought to remove without loss of time." In 1741, under Gabriel Johnston's administration, the only general church act was passed. It provided for a poll tax of five shillings. As this was inadequate in some parishes, special taxes were levied there. As money was scarce, provision was made for paying these taxes in commodities at fixed rates. Stringent fines were imposed upon all refusing or neglecting to pay these taxes. Where the Assembly authorized the establishing of a church, until such house could be built, the courthouse in that parish might be used for religious purposes.

Gov. Johnston believed that it was the duty of all well-regulated governments to keep the Lord's Day holy, and to suppress vice and immorality. So he recommends that all on that day apply themselves to the duties of religion and piety, and by the act of 1741 it was made a misdemeanor to engage in ordinary labor, or in gaming or sport, on land or on sea, within his jurisdiction. Swearing before any one was a grave and punishable offence, but before the representatives of the law the fine was heavier. Drunkenness on any day was fined, but on the Sabbath the fine was doubled. Each party in an act of fornication was fined twenty-five shillings. The father of a bastard was compelled, on pain of imprisonment, to support it; but if the mother would not reveal the father, she was responsible for its support. The provisions in this paragraph were authorized to be read publicly in all places of worship, by the minister, clerk or reader. Persons unable to pay the fines for drunkenness or swearing before a court of record, were put in the stocks not exceeding three hours. A court-house, a prison, and stocks were ordered to be built in every parish. Violators of the tippling-house ordinance, upon failure to pay their fine or give security, were subjected to the whipping-post. The next year after Gov. Johnston's death all excessive and deceitful gaming was prohibited. One-half of the fines accruing from the violation of this ordinance was devoted to the poor. One-half of all fines arising from violation of acts mentioned herein went to the informers. The other half was devoted sometimes to the Church, sometimes to the province.

Gov. Johnston died in 1752 and was succeeded by Arthur Dobbs. In 1730 the authorities in England had instructed Gov. Burrington to enforce the Schism Act, which had resulted in crippling the educational interests of the colony; these same instructions were, in 1733, renewed to Gov. Johnston; and in 1754, after twenty years of failure, the authorities, having gained no wisdom, again

renewed their old instructions, including the Schism Act. It seemed the home government was doing all in its power to hinder the growth, development, and liberty of the province. Gov. Dobbs began his administration in 1754 with an earnest effort to provide support for a sufficient number of learned, pious clergymen, who were to live in the province. He wished to accommodate these ministers with houses, glebes, and parish clerks, that the rising generation might be instructed in the principles of true religion and virtue.

The next ten years were years of trial. Act after act in regard to church-building or the hiring of clergymen was passed and almost immediately repealed. In 1760 great numbers of dissenters flocked into North Carolina, mainly from New England—Anabaptists, Methodists, Quakers, and Presbyterians. The Anabaptists and the Methodists were distinguished by their ignorance and obstinacy. The dissenters rendered the ministry and liturgy of the Church of England as odious as possible, that they and their doctrines might be the better supported. There was much scheming and corruption. Men took advantage of the technicalities of the acts of the Assembly to become vestrymen, after which they succeeded in making the laws null and void. Vestries worked for their own interests, performing their civic duties and ignoring their ecclesiastical functions. In Rowan county vestrymen refused to qualify and business was obstructed. They wrangled constantly with the governor for an increase of their functions. Many would not go to the polls on election days, so an act was passed to compel all except Quakers to vote or pay a fine of twenty shilling. Shackles were put on all schools. After the repeal of the Schism Act in England, it was reenforced three times in North Carolina. In educational matters there was less freedom in 1773 than in 1673. A more rigid conformity was required in Carolina than in England. This was tyranny. The history of provincial

North Carolina shows a continual struggle against a government which blindly sought to repress all aspirations whether political, religious, or intellectual.

An act of 1669 had made marriage a civil contract for lack of clergy. In 1715 magistrates were empowered to perform the marriage ceremony in parishes where there was no minister. In 1741, in the palmy days of good old Gabriel Johnston, the right was taken from all dissenting ministers except Quakers, and provision was made that the ministers of the established Church should get all marriage fees, it mattered not who had performed the ceremony, unless the churchmen had positively refused to do so. Marriage of whites to negroes or Indians was prohibited. This was well enough. By this religious persecution, the rights of Quakers and Baptists were taken away. Strange discrimination it was to favor the Quakers in some respects and oppress them in others. The Baptists seem to have been always unfortunate. The Methodists had not yet figured very largely in the province. The Presbyterians ignored all legislation in regard to marriage, and married when they pleased, and doubtless as they liked, in the most approved style; that is, without license or publication. In 1766 the restriction was removed from regularly called Presbyterian ministers, but the minister of the Church of England in the parish got the fee. Not until the Revolution and the constitution of 1776 had swept away the Establishment did the dissenting clergy have the legal right to perform the marriage ceremony.

Presbyterian and Quaker ministers, by special enactment, were released from general or private musters. Baptist ministers had to attend.

While dissenters suffered distraint for tithes and military levies, they were not imprisoned, and only one man, named Borden, was deprived of office on account of religious views. However, dissenters did not figure prominently as officeholders during the royal period. Sixty-six

years of constant agitation culminated in the Mecklenburg instructions of 1775 and the Declaration of Rights in 1776, and crystalized in the Halifax Constitution of 1776 and in the final adoption of the Federal Constitution of 1789. The final triumph of absolute religious freedom in this State was attained by the removal, in 1835, of what seemed to be a ban on Roman Catholics.

B. F. CARPENTER.

BART. F. MOORE ON SECESSION AND RECONSTRUCTION.*

Bartholomew Figures Moore was born near Fishing Creek, Halifax County, N. C., January 29, 1801. The first seventeen years of his life were spent on his father's farm. In 1818 he entered the State University and was graduated from that institution in 1820. From 1820-23 he prepared himself for the practice of law, which he began at Nashville, N. C., remaining there until 1835, when he removed to Halifax county, his old home. In December, 1828, he was married to Louisa Boddie, daughter of Geo. Boddie, Esq., of Nash county, who died November 4th, 1829.

On April 19, 1835, he married Lucy W. Boddie, another daughter of George Boddie, Esq. He served in the House of Commons from 1836-'44, with the exception of '38. In 1848 he was appointed by Governor Graham as Attorney-General of the State, and the next Legislature elected him to that position. In 1857 he resigned the position of Attorney General in consequence of an appointment on a commission to revise the statute law of the State. In 1848 he moved to Raleigh, where he remained until his death on November 27, 1878.

*The material from which this paper was written was taken from a Memorial Pamphlet, issued by the Bar of North Carolina, and letters written by Mr. Moore to his daughter, Mrs. Capehart, of Kittrell, N. C. They belong to the papers of the Historical Society of Trinity College.

In all the long career of Mr. Moore, as a lawyer, a statesman, or as a private citizen, there is probably nothing which brings out the true character of the man so well as the course he chose to pursue during the days of secession and reconstruction. He was by conviction a Federalist, both in politics and in the construction, which, as a lawyer, he placed upon the Constitution of the United States, and when the question of secession arose he declared himself unalterably opposed to it. For his views he was bitterly denounced by some, but few then stopped to consider, and fewer still recognized, the true motive which prompted him in taking such a course.

Viewed in the light of the then existing circumstances, it was indeed a bold step, and one fraught with the most serious consequences, especially to a man in the high position to which Mr. Moore had attained. He was then, and had been for many years, looked upon as one of the best, if not the best, lawyers in the State. His brief in the celebrated case of the State vs. Will, which, when decided, settled then and forever afterwards the true relations between master and slave in North Carolina, stood then, as it probably does until this day, as the greatest piece of legal argument ever produced in the State. The revision of the statute law of the State, which was entirely under his supervision, and a great deal of it his individual labor, was looked upon by the ablest critics as a work of marked ability. Had he espoused the cause of secession, no man would have stood higher among the leaders than he. But fortunately Mr. Moore was prompted by higher and nobler motives than the mere mercenary, and although deserted by friends and colleagues, he remained true to his honest convictions and unhesitatingly declared his opinion whenever and wherever the opportunity presented.

Mr. Moore was not blind to the fact that the South had grounds for complaint, as he says in a letter to his daughter: "I would not impress upon you that the South has no

cause of complaint. She has many, but if for such cause a people may quit their alliances, then there can be no durable union."

To him there could be no reliable liberty of the State without the union of the States. He was a close student of the Constitution of the United States and thoroughly understood the principles upon which it was founded. He plainly foresaw the almost inevitable results of a union of the Southern States based upon the principle which prompted secession. A nation composed of States whose union was optional, and necessarily weak, could only come to confusion and ruin.

Probably his own words can give us the best idea of how he looked upon the matter. In his will he says: "I was unable, under my conviction of the solemn duties of patriotism, to give any excuse for, or countenance to, the civil war of 1861, without sacrificing all self-respect. My judgment was the instructor of my conscience, and no man suffered greater misery than did I, as the scenes of battle unfolded the bloody carnage of war in the midst of our homes. I had been taught under the deep conviction of my judgment that there could be no reliable liberty of my State without the union of the States, and being devoted to my State, I felt that I should desert her whenever I should aid to destroy the Union. I could not imagine a more terrible spectacle than that of beholding the sun shining upon the broken and dishonored fragments of States dissolved, discordant and belligerent, and on a land rent with civil feuds and drenched in fraternal blood. With this horrible picture of anarchy and blood looming up before my eyes, I could not, as a patriot, consent to welcome its approach to 'my own, my native land,' and truly was I happy when I saw the sun of peace rising with the glorious promise to shine once more on States equal, free, honored and united."

There have been few, if any, of our great men who have

placed a higher estimate upon a good government, and a free and contented people, than did Mr. Moore. He hesitated at no obstacle, it matters not how great, when the purity of the government was at stake. In a letter to his daughter he says: "I have written, my dear child, more on politics than I intended, but how can I help it, when I regard our country as the best inheritance I can leave to my children; of far greater value than all my property, if that might be preserved in the general wreck of the financial affairs of the day."

Never did Mr. Moore show the honesty of his purpose, and the true love he felt for North Carolina better or to more effect than in the service which he rendered in the utter confusion which followed immediately upon the surrender. Time had proved the correctness of his views, and now when the days of reconstruction began he came forward as the leader in restoring North Carolina to her former position in the Union, which he had fought so hard for her to maintain. On account of his position in regard to secession, the Federal authorities sought his advice. Just after the close of the war President Johnson invited Mr. Moore to come to Washington to join in a consultation in regard to the taking of North Carolina back into the Union. He advised that she should at once be recognized with only such changes in her constitution as were necessary to make it better conform to the changed state of affairs. These changes he said the people should be allowed to make themselves and in their accustomed way. Mr. Moore's advice was not heeded, but it did not cause him for a moment to cease his efforts in his State's behalf.

When the Constitutional Convention was called by President Johnson, Mr. Moore was a prominent member and warmly supported the adoption of every measure which tended to place North Carolina in what he conceived was her proper place in the Union. His ambition was that she should not have her privileges curtailed, but should stand on

an equal footing with any State in the Union. Although he believed in the freedom of the slaves, yet he was bitterly opposed to negro suffrage and vigorously fought against it. He realized that the ignorant negroes had no idea of self-government, and to place the ballot in their hands meant no end of trouble for the whites of the South. Military rule was alike obnoxious in his sight. The presence of Federal soldiers to enforce laws was in direct opposition to what he considered the rights of North Carolinians to govern themselves.

Mr. Moore had little respect for the constitution of 1868, which was drawn up by a convention acting under the orders of General Canby, and which is now generally known as the "Canby Constitution."

In a letter dated March 28, 1868, he says: "It is in my view, with some exceptions, a wretched basis to secure liberty or property. The legislative authority rests upon ignorance without a single check except senatorial age against legislative plunder by exorbitant taxation." Further on in the same letter he says again: "The Radical party purposes to fill our Congressional representation with those men recently introduced from other quarters of the United States, and to impose them upon us through the instrumentality and league of the ignorance of the State, nor have they stopped there—they have proposed for the administration of justice in our Superior Courts men whose knowledge of law is contemptible and far below the requirements of a decent County Court lawyer. The party has had no regard, unless where they thought they would increase their strength, for the selection of a single man of worth or intelligence for any office, however high might be the qualifications demanded for it."

Soon after the adoption of the Canby constitution political excitement in North Carolina became very intense, and certain judges of the Supreme Court openly engaged in the canvass. Against this Mr. Moore felt that something

should be done to preserve the purity of the court. He was the oldest member of the bar and naturally felt that he should take the lead in the matter. Accordingly he drew up and had published in the *Daily Sentinel* of April 19, 1869, the following article, entitled: "A Solemn Protest of the Bar of North Carolina Against Judicial Interference in Political Affairs." "The undersigned present, or former, members of the bar of North Carolina, have witnessed the late public demonstrations of political partizanship by the judges of the Supreme Court of the State with profound regret and unfeigned alarm for the purity of the future administration of the laws of the land. Active and open participation in the strife of political contests by any judge of the State, so far as we recollect, or tradition or history has informed us, was unknown to the people until the late exhibitions. To say that these were unexpected, and a prediction of them by the wisest among us would have been spurned as incredible, would not express half of our astonishment or the painful shock suffered by our feelings when we saw the humiliating fact accomplished. Not only did we not anticipate it, but we thought it was impossible to be done in our day. Many of us have passed through political times almost as excited as those of to-day: and most of us, recently, through one more excited; but, never before have we seen the judges of the Supreme Court, singly or *en masse*, move from that becoming propriety so indispensable to secure the respect of the people, and, throwing aside the ermine, rush into the mad contest of politics under the excitement of drums and flags. From the unerring lessons of the past we are assured that a judge who openly and publicly displays his political party zeal renders himself unfit to hold the 'balance of justice,' and whenever an occasion may offer to serve his fellow-partizans he will yield to the temptation, and the 'wavering balance' will shake.

"It is a natural weakness in man that he who warmly

and publicly identifies himself with a political party will be tempted to uphold the party which upholds him, and all experience teaches us that a partizan judge cannot be safely trusted to settle the great principles of a political constitution, while he reads and studies the book of its laws under the banners of a party.

"Unwilling that our silence should be construed into an indifference to the humiliating spectacle now passing around us; influenced solely by a spirit of love and veneration for the past purity which has distinguished the administration of law in our State, and animated by the hope that the voice of the bar of North Carolina will not be powerless to avert the pernicious example which we have denounced, and to repress its contagious influence, we have under a sense of solemn duty subscribed and published this paper."

The above article was signed by one hundred and eight prominent attorneys, which was about one-fifth of the entire number in the State at that time. The matter was taken up at once by the Supreme Court and the famous "contempt proceedings" begun. Chief Justice Pearson issued orders that those lawyers whose names were signed to the article should hereafter be debarred from further practice in the courts unless they should appear before him and show cause to the contrary. To save expense and shorten matters notice was served on only three of the attorneys, Messrs. Moore, Bragg and Haywood. When answer to the charge was made, Messrs. Battle, Person, Fowle and Barnes appeared for the defendants. No denial of writing and publishing the article was made by the defendants, but they did disavow any intention of committing contempt or of doing injury to the court. On the other hand they declared their purpose was to preserve the purity of the court and protect the administration of justice. Judge Pearson gave quite an elaborate opinion on the case, strongly implying the guilt of the parties accused, but decided under the law which grants the accused the

privilege of coming into court and purging himself by pleading a disavowal of any intention to commit contempt. Their disavowal, coming within the rule, they were excused, but not acquitted.

The court seemed glad to let the matter go as it did, and well it might. The rebuke was merited, and the court has never recovered from its effect.

No one can doubt the honesty of Mr. Moore's motives in administering this reproof, and although he came out of the contest victorious, the whole matter was a source of the deepest regret to him. He says in a letter to his daughter: "While I rejoice that my course is sustained by all the virtuous and sensible, yet I weep over the degradation into which the court has plunged itself and the liberties of freemen. I had no purpose to degrade the court; God knows that my only object was to purify and elevate it. The conduct of individuals composing the court was unbecoming the judges according to my judgment, founded upon all the past examples of the enlightened men who had adorned our annals. I saw that if such conduct should be tolerated and become common, the judiciary would sink into partizan political corruption. I felt it my duty, as the oldest member of the bar, to lift my wavering voice against the pernicious example. I did so as an act of duty. I feel now still more sensibly that it was my duty."

This one act was probably the greatest single service ever rendered by any man in our State in the cause of the administration of justice. The same spirit of bold opposition to what he considered harmful to the State, which characterized Mr. Moore's course during the days of secession and reconstruction, is seen throughout his entire life. And whatever may be said of him along other lines, he certainly stood as an unselfish protector of the people's interests, displaying in his actions a foresight and sound judgment displayed by few.

J. P. GIBBONS.

THE LIFE AND CHARACTER OF JACOB THOMPSON.

North Carolina has contributed much to the history of other States. Many of our promising youths have gone to add their lives and talents to increasing the honor rolls of other sections of the Union. Upon all such she looks with pride and pleasure. But she is not willing that all the honor coming from such lives be claimed by the States of their adoption. It is a circumstance of no small consideration for one to have been a true, native North Carolinian. There is a solidity and strength of character in the general tenor of our good old State that will make itself felt wherever you find it. The mother takes some credit to herself for the achievements of her sons.

One life we should not fail to lay great claims to is that of Jacob Thompson, a native North Carolinian, who gave his life work to the State of Mississippi. He served twelve years as Congressman from that State during one of the most trying periods of the Nation's history, and filled the office of Secretary of Interior in the cabinet of James Buchanan. He was one of the strongest men of his time and exerted a powerful influence in the Nation's capital in the days when Webster, Clay, and Calhoun were crossing swords in the Senatorial arena. His life is worth considering.

He was born in the beautiful little village of Leasburg, in Caswell county, North Carolina, in 1810. His father was Nicholas Thompson, who moved from Orange county and settled in Leasburg about 1801. He was of Scottish descent, and inherited much of the energy and fortitude inherent in the people of the land of Bruce and Wallace. He accumulated a large fortune by farming, tanning leather, and harness making. He was thoroughly honest and upright in all his dealings. It is a fact worthy of notice, that in tracing the ancestors of Jacob Thompson back for several generations, we find them remarkable for their integrity and fidelity to principle.

The wife of Nicholas Thompson was Lucretia Vanhook, daughter of Jacob Vanhook, a Revolutionary soldier, and a man of considerable influence. Eight children were the result of this union, six boys and two girls. The boys' names were, Joseph Sidney, James Young, Jacob, John, William, and George Nicholas; the girls were Ann and Sarah. Of this number, only two are now living,—William Thompson, an influential lawyer of Oxford, Mississippi, and Mrs. Sarah M. Lewis, of College Hall, in the same State. Joseph Sidney, the eldest, was for some time a successful merchant of Leasburg. He died several years ago. James Young, and John were both prominent physicians of Mississippi. Ann became the wife of Yancey Wiley, a nephew of Bartlett Yancey, Caswell's distinguished statesman. These two, Mr. and Mrs. Wiley, also made Mississippi their home. The youngest son, George Nicholas, became a lawyer, settled in Leasburg, and rose to be a leader in the politics of Caswell county.

The subject of this sketch early showed the qualities that added so much to his name in after life. He was a bright, energetic, industrious boy, noted for his remarkable will power. He was prepared for college at the Hawfield school in Orange county, and he entered the University of North Carolina in his seventeenth year. He graduated in 1831, and received the first honors of his class. On the day of his graduation he was appointed one of the tutors of the college. While in college he was converted and for some time thought seriously of entering the active ministry of the M. E. Church, South. Finally, however, he decided to be a lawyer, and after eighteen months' efficient work as a teacher, he resigned his position and began the study of law under Judge John M. Dick, of Greensboro. In eighteen months he received license to practice in the Inferior Courts of the State, and in 1835 he was admitted attorney and counsellor-at-law in the Superior Courts of the State.

At this time Mississippi, with its vast, undeveloped resources, was a tempting field for strong, ambitious young

manhood. Thompson was attracted by it and soon left his native State for this rapidly advancing section of the Great Valley. At the advice of his brother he settled at Pontotoc. The Chickasaw Indians had just ceded the beautiful section around Pontotoc to the government. Owing to the conveyance of lands a great deal of business was required of lawyers in that section. Young Thompson threw all his tireless, well-equipped force into the work, and soon rose in popularity and influence. He made money fast.

But his friends would not let him keep out of politics. The community soon became divided on the question as to whether the State should endorse the Union Bank bonds for $5,000,000 or not. The first political speech ever made by Mr. Thompson was at a meeting held at Pontotoc for the purpose of favoring that policy and instructing the representatives in the Legislature to vote for the endorsement. Thompson opposed the resolution in a strong and able speech which attracted attention throughout the State. He denounced the banking mania which was running riot over Mississippi, and predicted that the sequence would be overwhelming ruin and universal bankruptcy. The resolutions were adopted, however, but in a short time the whole State had serious cause to regret that Thompson's warning had not been heeded.

After this he was pressed into political service. In 1837 he was nominated candidate for the Attorney-Generalship of his State on the Democratic ticket. He was defeated by a small majority, but in all sections where he was known he received an almost unanimous vote. About this time banks were suspended all over the Nation and the Democratic party seemed to fall into despair, especially in Mississippi.

Under those circumstances Thompson was nominated for Congress in 1839. He was quite young for such a position, but he made an exceptionally strong canvass and was elected by a handsome majority. For twelve successive years he served his State in this capacity, doing valuable work for Mississippi and for the country at large.

His talents and good qualities were recognized soon after he took his seat. In 1841 his second nomination for Congress was made. About that time the Union Bank became utterly bankrupt. The bonds of the Bank which the State had endorsed, and on which the Bank had raised capital to run its career, had been dishonored and the State was called upon to renew its endorsement. The Governor had refused payment on the ground that the State was not legally or morally bound, and an appeal was made to the people. Mr. Thompson was called upon for his views. He supported the Governor in his refusal in a letter setting forth the position so clearly that his views were accepted by the people and were adopted by the Legislature of the State. During the ensuing session of Congress offensive allusion was made on the floor of the House to Mississippi's action in the matter. Mr. Thompson, without any previous preparation, championed the cause of his State in a strong, masterful effort that put a stop to all sneers. This speech is before me and I find it interesting and full of sound reasoning. I cannot give a fair synopsis of it, and will not attempt it. It is the voice of a true statesman and of a great man. Among other things Mr. Thompson condemns the idea of a State or Nation contracting a debt by issuing bonds for loans. He holds that in times of peace no government should contract a permanent debt. He did not believe in giving capitalists and brokers a hold on the Treasury of State or Nation. He also made an eloquent defense of Mississippi's action in not sustaining the bonds. I should like to quote passages of this address, but space is not sufficient.

When the convention of 1844 met, the question of the annexation of Texas was the most prominent issue. As is well known, Henry Clay, on account of his honest opposition to annexation, failed to get the nomination, and James K. Polk was nominated. Jacob Thompson did much toward securing this nomination. He aided Robt. J. Walker in writing the celebrated letter which made annexation the issue

of the campaign. When Polk was elected he informed Walker that he could not offer him any cabinet position, except that of Attorney-General. Walker wanted a higher place and appealed to Thompson to use his influence toward getting it for him. Thompson influenced Polk to make Walker Secretary of the Treasury. When Walker heard of it, he exclaimed: "Oh, Thompson, you are my best friend! Your zeal and firmness have saved me. I can never, never forget you." I will mention in passing that Walker proved to be an unprincipled office-seeker and basely ungrateful to Thompson.

When the Mississippi Democratic Convention met in 1851, Mr. Thompson requested them to nominate some other man for Congress. He had for some time been desirous of retiring to private life and spending the remainder of his days among the quiet and peaceful scenes of his charming home. But when the convention looked for a candidate to fill his place, no agreement could be made, and Thompson was petitioned to become a candidate again. He at last consented. In this election, he was defeated on account of the weakness of his colleagues. He attempted to carry the whole district for his party and lost his own election.

For some time he had been regarded as one of the Father's of the House. His opinions were eagerly sought by his associates. I quote the following estimate from one well acquainted with his character: "Cautious and deliberate in taking all positions on all new issues, pet firm and resolute in maintaining them, he was ever consistent and became a leader on whom the most implicit reliance could be placed. Always prudent, yet firm and determined, sure of his position and well able to defend it, no constituency was ever served with more fidelity, honesty and efficiency, and none ever trusted a representative with more constancy and confidence." He was often weighed in the balance but never found wanting. In 1852, Mr. Thompson became a delegate to the Baltimore convention and contributed as much, and perhaps more than

any other one of its member, to the nomination of Franklin Pierce for the Presidency. After the election, President Pierce tendered Mr. Thompson the Consulship to Cuba but he respectfully declined the honor.

Soon after this, Mr. Thompson was strongly considered for the Senatorship from Mississippi, though Col. Jeff. Davis was finally selected.

In 1856, Mr. Thompson supported James Buchanan in the Presidential Convention. After the election, he was invited to take charge of the Department of the Interior in Mr. Buchanan's Cabinet. This he accepted and entered on his duties March, 1857. He found the Department a mere aggregation of bureaus, working entirely without concert, and the Secretary a mere figure head. With his old time energy, he went to work and infused new life into every department, united all the business under one head, himself the director. The department grew in favor and popularity with the whole country. The business transacted by it was enormous. The volumes of the decisions of Secretary Thompson in law cases alone, were larger than those of the Attorney General.

During this administration, the treachery of one of the clerks of the Department of the Interior caused much adverse and very unjust criticism of the worthy Secretary. An investigation was made by Mr. Thompson's politial opponents to find out the truth and it was soon found that he was innocent of any of the charges his enemies had heaped upon him.

When the Civil War had broke out, Mr. Thompson volunteered his services. He went into active service and held several important positions during his stay in the army. He gave valuable assistance to General Pemberton around Vicksburg. He retired in 1863 to serve in the Legislature of his State.

Soon, however, there came a telegram from President Davis, calling him to Richmond. The President had heard that several thousands of people in Ohio, Indiana, and Illinois, were weary of the war and were ready to take up arms and

demand of the United States Government a cessation of hostilities. The Confederate Congress had voted an appropriation toward arming these people, and directed President Davis to send one of our most discreet and reliable citizens to Canada, to confer with those who sympathised with the Confederacy and were willing to aid in bringing the war to a close. This was a secret mission and one liable to subject the ambassador to slander and misrepresentation by the unscrupulous. Mr. Thompson hesitated before accepting it. But he felt it his duty to serve his country in any honorable way possible, and finally accepted. Accompanied by C. C. Clay and W. W. Clery, he ran the blockade at Wilmington, N. C., and sailed to halifax, Nova Scotia; from thence he went to a point south-west of Montreal where he could confer with the people of the States mentioned above. His experience here read like a romance. Nothing of value, however could be accomplished and he ordered the escaped Confederates under his charge to return home. These were panting for revenge, and, going contrary to Thompson's order, made a rade on the town of St. Albans, in Vermont. For this deed committed by a band of unruly, revengeful prisoners, Mr. Thompson was called an incendiary by the press of the time. He made no defense whatever, but waited for time to reveal the right. He was soon cleared of all such base accusations.

While Thompson was on his way to Halifax from Montreal, President Lincoln was assassinated. Then one of the most unpardonable plots was conceived by certain authorities in Washington City. They decided to charge the President of the Confederacy and his commissioners in Canada with deliberately planning this terrible crime. Perjured testimony was obtained by bribery. A proclamation was issued offereing a large reward for the arrest of Jefferson Davis, Jacob Thompson, Clement C. Clay, and others. A friend told me recently that he saw a copy of a tblegram in the Historical Collection of the Johns Hopkins University, which reads: "Arrest Jacob Thompson." This tells the tale.

When Thompson heard of this his first impression was to present himself at Washington City, and demand a trial. His frsends fearing that justice would not be done him by the authorities in power persuaded him not to do this.

Mr. Lincoln and Mr. Thompson had served in Congress together and had formed there a true and lasting friendship. Each admired and respected the manly qualities of the other. Thompson recognized in Lincoln a real friend and not an enemy of the Southland, and instead of rejoicing at the assassination of the President, he mourned it as a public calamity and a private sorrow. Only a short while before the assassination, Thompson had been recognized by some Federal authorities in Portland, Maine, where he was seking a vessel on which to escape from the country. The Secretary of War was about to issue an order for his arrest, Mr. Lincoln hearing of this, only a few hours before his assassination, suspended the issuing of the order and expressed a wish that Thompson be allowed to leave the country unmolested. This shows the relations existing between them. It is needless to add that subsequent history has obliterated the envious calumny.

Mr. Thompson and his family soon sailed for Europe where they spent several years before returning to their homes in Oxford, Miss.

Soon after going to Mississippi he had been married to Miss Catharine Jones, the only daugher of Paton Jones, a very wealthy and prominent man. Mrs. Thompson was a lovely woman, possessing fine taste and judgment. She was a favorite of society in Washington, and made the home of her husband the favorite resort of Senators and Representatives. Between her and her husband the utmost harmony and confidence existed.

Their only son, Caswell Macon, married a Miss Fox, and died leaving a widow and two little girls to be cared for by his parents. One of these grand-children is Mrs. Van Leer Kirkman, the beautiful and accomplished Lady Manager of Nashville Exposition of 1897. Her picture appeared in *Munsey's Magazine*, a few months ago.

In private as well as public life, Jacob Thompson bore himself as a man of high character. One says of him: "He was a dear, good man, an excellent friend, sympathetic in nature, kind and generous. Im manner dignified, commanding respect. He was remarkable in being never overbearing to inferiors." He was a very successful business man, and managed a large plantation with large profit to himsef. He often loaned money but never charged interest. He did not believe in charging interest.

I will close as I began, that North Carolina will do well to lay some claim to the achievements of her distinguished son. His life reflects credit on his mother State, on his adopted State, and the nation at large. The best that can be said of him is that he was a man brave and true. In all his remarkable and chequered existence, he never sold his birth-right. In this age, when the forms of the demagogue and unprincipled office-seeker are so clearly outlined on our political sky, it is refreshing to turn and gaze on one who knew what it meant to be a true citizen of his country.

J. F. BIVINS.

BOOK NOTICES.

JOHN S. BASSETT.

Robert E. Lee and the Southern Confederacy. By Henry Alexander White. Heroes of the Nation's Series. (New York: G. P. Putnam's Sons. 1897. Pp. xiv, 467.) Here is a good military life of General Lee, and a clear view of the Civil War from the Southern standpoint. The strong points of the work are clearness, force, sustained interest, directness, and elevated ideas. Lee is painted as the hero, and yet the narrative is not weakened by that provincial tone of self confidence that often appears in books by Southerners about their own prominent men or about their own history. Back of Lee the soldier is Lee the man. In Dr. Worth's treatment of this side of his subject is seen the charm peculiar to Virginia breeding which writers like Thomas Nelson Page, and Dr. Woodrow Wilson in his *Washington* have made familiar to many readers. This book is noteworthy for another reason: It is a triumph of reconciliation and union to put a life of Lee in the Heroes of the Nation's Series. Its contemporary appearance with the life of General Grant means much. Both of these men are real American heroes and we of the South feel that Grant is as much ours as him whom we love the more only because he suffered with us the more—and whom we shall always revere as "Marse Robert." White's Life of Lee should be read by all Americans.

American History Told by Contemporaries. Edited by Albert Bushnell Hart. Vol. 1. Era of Colonization, 1492–1689. (New York: Macmillan Co. 1897. Pp. xviii, 606). Here is undoubtedly a book that has been a long time needed. No teacher of History needs to be told that the best way to bring the life of the past into the minds of his students is by making those students go through the closest records of the people of the past. Such records should be original in the strictest sense. They should convey living impressions of conditions at that time. After a student has learned the outline of historical development his best work will be to master through the use of the records the same field taking up nation after nation. If time should be wanting one nation carefully studied in this way will be worth more than three nations skimmed through. In the selection of Prof. Hart's extracts much care has usually been shown; but the space assigned to North Carolina will not satisfy North Carolinians. It could have been wished that the Fundamental Constitutions had been omitted, since they reflect in the slightest sense any real life in the colony. When will historians cease to make this document the back-bone of our colonial history? For a glimpse of real conditions any of the letters of the governors, or the court records, which abound in the North Carolina Colonial Records, would have been more valuable. It ought to be added, however, that the selections of extracts in reference

to other Colonies seems to have been more wisely made. The selection in our own case is due no doubt, to the gross lack of sufficient interest in our own history by our own people. On the whole, Prof. Hart's work is of the greatest importance. Many teachers of American History must only await the completion of the series before making it a required parallel in their classes.

The Church and Private Schools of North Carolina. By Charles Lee Raper. (Greensboro, N. C.: Jos. J. Stone. 1898. Pp 247). This noteworthy book contains sketches of sixty-five of the leading church and private schools that have been founded in this State. It was desirable that this story should have been told. The author has told it in a direct, nervous manner, not devoid of interest He has displayed much industry and patience He has omitted some local high schools, especially in the Eastern part of the State. Many people will be disappointed because of the omission of Davis School. Possibly the system of preparatory schools established under the auspices of Trinity College should have been discussed. The first half of the book is better done than the latter half. It shows more deliberation. The latter part is not free from inaccuracies. For example, it is said (p. 197) that at the last sessions of the Methodist Conferences "It was decided to introduce a preparatory department [at Trinity College] beginning with the fall of 1898." This is not true. In another place (p. 199) I find this: "Seventy-five thousand dollars would have erected all the buildings the institution needed, or will ever need." But few who understand the conditions at Trinity would limit the development of the institution in the future to so small a plant. In speaking of the failure to get information from Littleton Female College the author says (pp. 240–1): "The writer has again and again written to President Rhodes for information, but with one exception he has shown his supreme indifference. He is either ashamed of the record he has made for his school or has a queer idea of common courtesy." Mr. Raper had a right to say why he had no information about Littleton; but he had no right to say it in a spirit so childishly petulent. These small points show a lack of that restrained judgment which is necessary to proper dignity and reliable statement in historical work. However, Mr. Raper's work has much merit and must be pronounced an important book in a field where almost nothing has been done. It is to be hoped that the author's future work may be free from such faults of historical style as these.